

Memorial Resolutions

S. R. No. 1127—By Senator Blanchard: Memorial resolution for Specialist 4th Class Eddie L. Dodd.

S. R. No. 1128—By Senator Blanchard: Memorial resolution for Dan S. Thorne.

Welcome and Congratulatory Resolutions

S. R. No. 1123—By Senator McKool: Extending commendation to Casa View Elementary School Girls' Soccer Team.

S. R. No. 1124—By Senator McKool: Extending commendation to Destyn Meyer and Karen Powell, Central Elementary School, Seagoville, for their dedication to their studies.

S. R. No. 1125—By Senator Sherman: Extending welcome and commendation for their accomplishments and contribution in music to the Pampa High School Choir. (Amended.)

S. R. No. 1126—By Senator Wallace: Extending welcome to Girl Scout Troop 1820 of Houston.

S. R. No. 1129—By Senators Kothmann and Bernal: Extending appreciation to National Taco Council for their promotion of National Taco Week.

S. R. No. 1130—By Senator Herring: Extending appreciation to T. C. Calhoun on his retirement as Principal of Kealing Junior High School.

Adjournment

On motion of Senator Harrington the Senate at 12:14 o'clock p.m. adjourned until 10:00 o'clock a.m. tomorrow.

APPENDIX**Sent to Governor**

May 3, 1971

S. B. No. 635.

S. B. No. 175.

S. B. No. 335.

S. B. No. 217.

S. B. No. 895.

SIXTY-FIFTH DAY

(Tuesday, May 4, 1971)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President Pro Tempore.

The roll was called and the following Senators were present:

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Reports of Standing Committees

Senator Kennard submitted the following reports for the Committee on Public Health:

S. B. No. 484.

C. S. S. B. No. 559 (Read first time)

S. B. No. 327 (Amended)

Senator Aikin submitted the following reports for the Committee on Finance:

S. B. No. 866.

S. B. No. 324.

Senator Connally submitted the following report for the Committee on Parks and Wildlife:

H. B. No. 1628.

Senator Creighton submitted the following reports for the Committee on Water and Conservation:

H. B. No. 1598.

H. B. No. 647.

Senator Brooks submitted the following report for the Committee on State Departments and Institutions:

H. B. No. 1190 (Floor Report).

Senator Hall submitted the following reports for the Committee on County, District and Urban Affairs:

H. B. No. 718 (Amended) (Floor report).

C. S. S. B. No. 649 (Read first time) (Floor report).

Senator Mauzy submitted the following report for the Committee on Education:

H. B. No. 787 (Floor report).

Senator Hall submitted the following reports for the Committee on County, District and Urban Affairs:

C. S. S. B. No. 648 (Read first time) (Floor report).

H. B. No. 999 (Floor report).

H. B. No. 837 (Floor report).

H. B. No. 642 (Floor report).

H. B. No. 584 (Floor report).

H. B. No. 574 (Floor report).

H. B. No. 573 (Floor report).

H. B. No. 572 (Floor report).

H. B. No. 352 (Floor report).

S. B. No. 927.

H. B. No. 287 (Floor report).

H. B. No. 238 (Floor report).

S. B. No. 238 (Amended) (Floor report).

S. B. No. 15 (Floor report).

S. B. No. 934 (Floor report).

Senator Moore submitted the following reports for the Committee on State Affairs:

S. B. No. 290.

H. B. No. 1424.

S. B. No. 480.

H. B. No. 630.

S. B. No. 572.

Senator Word submitted the following reports for the Committee on Military and Veterans Affairs:

H. B. No. 966 (Floor Report).

H. B. No. 704 (Floor Report).

Senator Mauzy submitted the following reports for the Committee on Education:

H. B. No. 1704 (Floor report).

S. B. No. 455 (Floor report).

Senator Bates submitted the following report for the Committee on Transportation:

H. B. No. 97 (Floor report).

Senator Brooks submitted the following report for the Committee on State Departments and Institutions:

H. B. No. 403 (Floor report).

Senate Bills and Resolution on First Reading

Senator Sherman moved that Senate Rule 108 and Section 5 of Article III of the State Constitution be suspended to permit the introduction at this time, the following bills, the provisions of which were explained.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

The following bills were then introduced, read first time and referred to the Committee indicated:

By Senator Sherman:

S. B. No. 955, A bill to be entitled "An Act amending Section 1, Chapter 1, Acts of the 46th Legislature, Regular Session 1939, to provide that cer-

tain bonds or obligations, when the United States Government or any agency thereof guarantees payment, are authorized security for all public deposits and lawful investments for certain entities; and declaring an emergency."

To Committee on Banking.

By Senator Creighton:

S. B. No. 956, A bill to be entitled "An Act providing for the authorization and issuance by any city or town, which owns a sea life park and oceanarium, the same having been or being constructed, equipped and developed wholly or partly with the proceeds of duly voted general obligation park bonds, of certificates of indebtedness for the purpose of operating, maintaining, supplying, repairing or further developing any such park improvements and certain other public facilities of the type authorized by Chapter 63, page 148, Acts of 1965, 59th Legislature, Regular Session, as amended by Chapter 563, page 1239, Acts of 1967, 60th Legislature, Regular Session (compiled, as amended, as Article 1269j-4.1, Vernon's Annotated Civil Statutes) or under said Act and Chapter 400, page 1296, Acts of 1969, 61st Legislature, Regular session (compiled as Article 1269j-4-2, Vernon's Annotated Civil Statutes); providing for the manner and terms of issuance of said obligations and the security therefor; providing for their incontestability; providing for the refunding thereof; declaring them authorized investments and security for public funds and related matters; providing authority to make contracts and to prescribe procedures therefor and terms thereof; providing for a severability clause and that this Act shall be cumulative; and declaring an emergency."

To Committee on State Affairs.

By Senator Wallace:

S. B. No. 957, A bill to be entitled "An Act relating to registration and filing of financial statements by persons engaged in representation before the Legislature and state agencies; amending Sections 5, 6, and 7, Chapter 9, Acts of the 55th Legislature, 1st Called Session, 1957 (Article 183-1, Vernon's Texas Penal Code); amending Section 2, Chapter 12, Acts of the 55th Legislature, 1st Called Session, 1957 (Article 183-2, Vernon's

Texas Penal Code); and declaring an emergency."

To Committee on State Affairs.

By Senator McKool:

S. B. No. 958, A bill to be entitled "An Act changing the name of the Texas Fine Arts Commission to the Texas Commission on the Arts and Humanities; modifying the powers and duties of the Commission in accordance with the change in name; amending Sections 1, 3, and 4, Chapter 323, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 6144g, Vernon's Texas Civil Statutes), and declaring an emergency."

To Committee on State Departments and Institutions.

By Senator Bernal:

S. B. No. 959, A bill to be entitled "An Act amending Section 1, Chapter 68, Acts of the 58th Legislature, 1963, as amended (Article 3912j, Vernon's Texas Civil Statutes), relating to salaries of county road engineers in certain counties; and declaring an emergency."

To Committee on County, District and Urban Affairs.

By Senator Brooks:

S. B. No. 960, A bill to be entitled "An Act relating to the registration of pressure vessels; providing for penalties for violations of the Act; and declaring an emergency."

To Committee on Labor and Management Relations.

By Senator Bates:

S. B. No. 961, A bill to be entitled "An Act validating certain actions of the Railroad Commission relating to the transportation of agricultural products in their natural state; and declaring an emergency."

To Committee on Transportation.

By Senator Snelson:

S. B. No. 962, A bill to be entitled "An Act relating to disannexing the territory of certain independent school districts from certain junior college districts and establishing new junior college districts; amending Subchapter D, Chapter 51, Texas Education Code, by adding Section 51.069; providing for severability; and declaring an emergency."

To Committee on County, District and Urban Affairs.

By Senator Christie:

S. B. No. 963, A bill to be entitled "An Act relating to the authority of the Tribal Council of the Tigua Indian Community to issue revenue bonds and other evidences of indebtedness and to dispose of certain revenue; amending Chapter 279, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 5421z, Vernon's Texas Civil Statutes); and declaring an emergency."

To Committee on County, District and Urban Affairs.

By Senator Wilson:

S. B. No. 964, A bill to be entitled "An Act relating to the creation of the County Court at Law of Angelina County; providing an effective date; providing for the appointment of the initial judge of the court; and declaring an emergency."

To Committee on Legislative, Congressional and Judicial Districts.

By Senator Wilson:

S. B. No. 965, A bill to be entitled "An Act authorizing the creation of a hospital district under the provisions of Article IX, Section 9, of the Texas Constitution, located in Polk County, Texas; providing the boundaries of the district; providing said district shall assume responsibility for medical and hospital care for the needy residing within the district; providing that such district shall not be created until authorized by a majority vote of the qualified property taxpaying electors in said district at an election called by the commissioners' court on its own motion or upon petition; prescribing the form of the ballot for said election; authorizing the levy of a tax by said district not exceeding 75 cents on the \$100 valuation of taxable property for the purpose of maintaining and operating a hospital or hospitals and making additions and improvements thereto; providing for the method of assessing and collecting of taxes; authorizing the issuance of bonds by the district and prescribing the procedure therefor; authorizing the issuance of refunding bonds by the district; authorizing the conveyance of all hospital properties by Polk County to the hospital district which are located in said dis-

trict; providing for the appointment of a board of hospital managers for said district and prescribing its powers and duties; authorizing the establishment of a retirement system for employees of the district; granting the power of eminent domain to the district; providing for the selection of a depository for funds of the district; prescribing duties of officers of the district and other officers of the county and state with respect to the district; prohibiting the levy of any tax by Polk County, or any city therein, for hospital purposes after the creation of the district except taxes to pay for hospital bonds already voted and not now issued by said county which are not assumed by said district and providing that if a hospital district is created in the south portion of Polk County which assumes the payment of said bonds, a tax to be levied in this district to pay the pro-rata share of said bonds; making bonds of the district eligible for investment of certain funds and as security for certain deposits; making a finding that local notice has been properly given; providing a savings clause; and declaring an emergency."

To Committee on County, District and Urban Affairs.

By Senator Wilson:

S. B. No. 966, A bill to be entitled "An Act authorizing the creation of a hospital district under the provisions of Article IX, Section 9, of the Texas Constitution, in Polk County, Texas; providing the boundaries of the district; providing for the assumption of all outstanding indebtedness of Polk County incurred for hospital purposes; providing said district shall assume responsibility for medical and hospital care for the needy residing within the district; providing that such district shall not be created until authorized by a majority vote of the qualified property taxpaying electors in said district at an election called by the commissioners' court on its own motion or upon petition; prescribing the form of the ballot for said election; authorizing the levy of a tax by said district not exceeding 75 cents on the \$100 valuation of taxable property for the purpose of maintaining and operating a hospital or hospitals and making additions and improvements thereto; providing for the method of assessing and collecting of taxes; au-

thorizing the issuance of bonds by the district and prescribing the procedure therefor; authorizing the issuance of refunding bonds by the district; authorizing the conveyance of all hospital properties by Polk County to the hospital district which are located in said district; providing for the appointment of a board of hospital managers for said district and prescribing its powers and duties; authorizing the establishment of a retirement system for employees of the district; granting the power of eminent domain to the district; providing for the selection of a depository for funds of the district; prescribing duties of officers of the district and other officers of the county and state with respect to the district; prohibiting the levy of any tax by Polk County, or any city therein, for hospital purposes after the creation of the district except taxes to pay for hospital bonds already voted and not now issued by said county which are not assumed by said district and providing that if a hospital district is created in the south portion of Polk County which assumes the payment of said bonds, a tax to be levied in this district to pay the pro-rata share of said bonds; making bonds of the district eligible for investment of certain funds and as security for certain deposits; making a finding that local notice has been properly given; providing a savings clause; and declaring an emergency."

To Committee on County, District and Urban Affairs.

By Senator Wilson:

S. B. No. 967, A bill to be entitled "An Act including the waters of Lake Livingston located in Polk, Trinity, Walker, and San Jacinto counties under the provisions of the Uniform Wildlife Regulatory Act; amending Sections 1 and 18 of the Uniform Wildlife Regulatory Act, as amended (Article 978j-1, Vernon's Texas Penal Code); and declaring an emergency."

To Committee on Parks and Wildlife.

By Senator Wilson:

S. B. No. 968, A bill to be entitled "An Act repealing Section 2, S. B. No. 333, Acts of the 62nd Legislature, Regular Session, 1971, which provides that persons residing in certain junior college districts may petition for an election to determine whether or not the district shall be divided into sep-

arate election districts for the purpose of electing trustees for the district; and declaring an emergency."

To Committee on County, District and Urban Affairs.

By Senator Wilson:

S. B. No. 969, A bill to be entitled "An Act amending Chapter 279, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 5421z, Vernon's Texas Civil Statutes), by adding a Section 21A relating to residential leases of certain Indian land to members of the Alabama and Coushatta Tribes; and declaring an emergency."

To Committee on State Affairs.

By Senator Bernal:

S. B. No. 970, A bill to be entitled "An Act amending Section 1, Chapter 165, Acts of the 58th Legislature, 1963, as amended (Article 6819a-19c, Vernon's Texas Civil Statutes), relating to supplemental salaries of certain district judges; and declaring an emergency."

To Committee on County, District and Urban Affairs.

By Senators Brooks, Patman, Bernal, Kennard and McKool:

S. B. No. 971, A bill to be entitled "An Act relating to the authority of the State Board of Health to modify or delete immunization requirements for admission to school; amending Section 2.09(b), Texas Education Code, as amended by Senate Bill No. 27, 62nd Legislature, Regular Session; and declaring an emergency."

To Committee on Public Health.

By Senator Brooks:

S. B. No. 972, A bill to be entitled "An Act relating to the transfer of all funds left in a private financial institution by the Texas State Board of Examiners in Optometry to the Texas Optometry Board, and declaring an emergency."

To Committee on Finance.

By Senator Patman:

S. B. No. 973, A bill to be entitled "An Act relating to the establishment of an off-campus branch of a public senior college as an upper-level educational center to be located in the City of Victoria, to be known as the Victoria State University; and declaring an emergency."

Read first time but not referred.

By Senator Wilson:

S. J. R. No. 55, Proposing an amendment to Article III of the Texas Constitution, authorizing the legislature to impose certain prohibitions against officers, members, and employees of state regulatory boards, agencies, commissions, and departments.

To Committee on Constitutional Amendments.

Message From the House

Hall of the House of Representatives

Austin, Texas,
May 4, 1971.

Hon. Ben Barnes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 64, Creating an interim committee on historic flags of Texas.

H. C. R. No. 110, That a special interim committee of six members be created to conduct a study of no-fault automobile insurance and competitive automobile insurance rate-making.

H. C. R. No. 126, Memorializing Congress to request the Department of Transportation to modify proposed regulations on farm truck driver qualification.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 396.

House Conferees: Salter, Chairman; Parker of Jefferson, Rosson, Braecklein, Shannon.

The House has granted the request of the Senate for the appointment of a Conference Committee on Senate Bill No. 652.

House Conferees: Clayton, Chairman; Allen of Gregg, Finck, Swanson, Cruz.

Respectfully submitted,
DOROTHY HALLMAN,
Chief Clerk, House of Representatives

Co-Author of Senate Bill 743

On motion of Senator Brooks and by unanimous consent, Senator Kennard will be shown as Co-author of S. B. No. 743.

Senate Bill 598 on Second Reading

Senator Bates moved to suspend the regular order of business and take up S. B. No. 598 for consideration at this time.

The motion prevailed by the following vote:

Years—28

Aikin	Hightower
Bates	Jordan
Beckworth	Kennard
Bernal	Kothmann
Blanchard	Mauzy
Bridges	McKool
Brooks	Ratliff
Christie	Schwartz
Connally	Sherman
Creighton	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word

Nays—3

Grover	Patman
Moore	

The President Pro Tempore laid before the Senate on its second reading and passage to engrossment:

S. B. No. 598, A bill to be entitled "An Act to validate certain unenforceable tax levies; to provide for valid annual levies hereafter; etc., and declaring an emergency."

The bill was read second time.

Senator Bates offered the following Committee Amendment to the bill:

Amend Senate Bill 598 by deleting all language below the enacting clause and substituting the following:

SHORT TITLE. This Act may be cited and referred to as the "Property Tax Interim Reform Act of 1971."

DEFINITIONS. In this Act unless the context clearly indicates to the contrary:

(a) "Tax Unit" or "Unit" means any governmental agency authorized under the laws of this State to levy, assess and collect ad valorem taxes, or do any of these.

(b) "Tax Assessor" or "Assessor" or "Tax Assessor-Collector" or "As-

essor-Collector" means the officer of any Tax Unit, regardless of his title, who assesses ad valorem taxes for the Unit.

(c) "Tax Collector" or "Collector" or "Tax Assessor-Collector" or "Assessor-Collector" means the officer of any Tax Unit, regardless of his title, who collects ad valorem taxes for the Unit.

(d) An "Authorized Collection Expense" means any fee, charge, cost or expense of collecting ad valorem taxes, as provided in this Act or otherwise by law, which may be charged against the owner of property delinquent, omitted or "re-assessed," or which is made a preferred charge against such property, or both.

PART I—LEVY

Section 1.01. UNENFORCEABLE LEVIES. (a) All tax levies heretofore made by and for any Tax Unit, which levies are unenforceable because not made in strict compliance with the form and manner required by statute or because of any other defect which may be cured by the Legislature, are hereby validated and declared enforceable the same as though they had been regularly made in proper form and manner.

(b) Henceforth if for any cause any Tax Unit fails to make a valid tax levy for any year, the last prior valid tax levy of that Tax Unit shall be continued in force as the tax levy of such Tax Unit for the year in which a valid levy was not made.

Section 1.02. LEVIES NOT RECORDED. Should any Tax Unit fail to make a proper record of a tax levy for any year, but taxes were assessed and collected by the Unit for that year and the tax rate(s) can be determined by examining the tax rolls for such year, this shall constitute notice that a tax levy was made by the Unit for that year even though such levy was not properly recorded; and the Unit's governing body may make inquiry and determine that a proper tax levy was regularly made for such year but was not recorded, and the governing body may order that a proper tax levy ordinance for such year be entered in the official records nunc pro tunc, and this shall be conclusive evidence that the Tax Unit's levy for such year was properly and regularly made. This provision shall be cumulative of and in addition to all other

rights and remedies now available to any Tax Unit in such cases.

Section 1.03. INAPPLICABILITY OF SECTIONS 1.01 AND 1.02 OF THIS ACT. Section 1.01 and 1.02 of Part I of this Act shall not affect any suit pending in any Court on the effective date of this Act where the invalidity or non-record of any tax levy has heretofore been pleaded.

PART II—RENDITIONS & ASSESSMENTS

Section 2.01. PROPERTY NUMBER SYSTEM. Amend Section 17 of Chapter 103, Acts of the 25th Legislature, Regular Session, 1897 (Article 7344, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7344. Property Number System.

"Section 1. All Tax Units are hereby authorized to maintain a public Property Register containing record ownerships and complete property descriptions, including maps and plats where necessary, wherein an individual number is assigned to each property so listed, and thereafter for all purposes this Property Number shall be a sufficient description of the property to which it is assigned, and a certified copy of each description and its Property Number shall be admissible as evidence in all courts.

"Section 2. Whenever record ownership or complete description, or both, is lacking, a Temporary Property Number may be assigned and it shall be fully effective as a description of the property as listed in the Register. Property Numbers may be changed as necessary, but such changes must be noted in the Register to be effective.

"Section 3. In listing the record owner(s) of each property for each year the correct mailing address and federal taxpayer number (or Social Security Number) of the owner(s) shall be shown; and Tax Units shall require that such address and taxpayer number information be furnished before any rendition or claim of exemption can be accepted and before any receipt for payment of taxes can be issued.

"Section 4. Tax Units are authorized to contract for expert assistance in complying and processing data necessary to establish and maintain

Property Registers and to provide for payment of all such costs out of the proper funds of the Tax Unit. Where a Tax Unit participates in a Tax Data Center authorized by this Act, the Unit may pay the Center to set up and maintain a Property Register for property under the Unit's jurisdiction and thereafter it will be unnecessary for the Unit to maintain a separate Register in order to use the Property Number System.

"Section 5. Where desired, any Tax Unit may create a special fund for payment of all or any part of its Property Register costs and Tax Data Center contributions by allocation of revenues from unencumbered taxes, penalty (including interest) and costs collected on property delinquent, omitted or "re-assessed," and the Unit may issue such warrants, certificates of indebtedness and certificates of partial assignment of assessment cost liens or collection cost liens, or any of them, as may be appropriate, with payments to be made from the special fund. Interest on such obligations shall not exceed ten percent (10%) per annum and none of them shall be made for a period of more than six (6) years.

"Section 6. As soon as practicable the Comptroller, with the advice and assistance of the State Auditor, shall develop and maintain a uniform Property Number system, and this system, as amended from time to time, must be followed by all Tax Units using Property Registers as herein provided.

Section 2.02. TAX DATA CENTERS. Add a new article to Title 122, Revised Civil Statutes of Texas, 1925, to be numbered Article 7344a and to read as follows:

"Article 7344a. Tax Data Centers.

"Section 1. It is hereby declared to be the policy of the State to eliminate unnecessary duplication in listing property for ad valorem tax purposes and to encourage all Units taxing each property to use a single, uniform description for the property. To this end Tax Units in each county are authorized to establish a Tax Data Center to compile and maintain pertinent information about property in the county, to make this data available to participating Units for their use in assessing and collecting ad valorem taxes and to perform other relevant services as directed. Each

Center may be organized in the form and operated in the manner determined by the member Units, which shall contribute to the costs of the Center on the basis adopted by the member Units. Each Unit is authorized to pay its share of the costs of the Center out of the proper funds of the Unit.

"Section 2. To promote the use of Tax Data Centers, the State will assist, whenever a Center is established by two or more Tax Units in a county, by contributing to the Center all of the penalty (including interest) and costs collected in connection with State ad valorem taxes on property delinquent, omitted or "re-assessed," these payments for the State's share of the expenses of the Center to be made monthly to the Center by the County Assessor-Collector, who shall report the amount of each such monthly contribution to the Comptroller.

"Section 3. Units taxing property situated in more than one county may be members of the Tax Data Center in each county involved. Any Unit desiring to withdraw from a Center may do so under the terms and conditions specified when it became a member or to which it may have subsequently agreed. Tax Data Centers shall use the Property Number system for descriptions as provided in this Act and maintenance of a Property Register at the Center shall eliminate the need for keeping separate Registers at the member Tax Units.

"Section 4. As a convenience to taxpayers and Tax Units alike, the Boards of Equalization of Units participating in a Tax Data Center may hold hearings jointly; however, their decisions shall be made separately.

Section 2.03. REAL PROPERTY. Amend Section 2, Chapter 157, Acts of the 15th Legislature, Regular Session, 1876, as last amended (Article 7146, Revised Civil Statutes of Texas, 1925, as amended) so as to read hereafter as follows:

"Article 7146. Real Property.

"Real property for the purposes of taxation shall be construed to include the land itself, whether laid out in town lots, or otherwise, and all buildings, structures and improvements, or other fixtures, of whatsoever kind thereon, and all mines, minerals, quarries and fossils in and under the same, and all the rights, privileges

and claims belonging or in anywise appertaining to such real property or based thereon."

Section 2.04. LIEN FOR TAXES. Amend Section 1 of Section 22, Chapter 157, Acts of the 15th Legislature, Regular Session, 1876, as last amended (Article 7172, Revised Civil Statutes of Texas, 1925, as amended), so as to read hereafter as follows:

"Section 1. All ad valorem taxes shall be a paramount lien upon the property assessed until the taxes have been paid, and the lien, effective from January 1st of each year for which the assessment is made, shall extend to all mutations of and substitutions for the property (including insurance proceeds payable for damage to or destruction of the property subject to the lien). And should any property escape assessment for any one or more years, the lien shall be good for each year in which a valid assessment was not made, and a proper assessment may be made for each year when none was made."

Section 2.05. PERIOD FOR RENDITION. Amend Section 1 of Article 7151, Revised Civil Statutes of Texas, 1925, as last amended (Article 7151, Vernon's Texas Civil Statutes), so as to read hereafter as follows:

"Section 1 (a) All property shall be listed for taxation between January 1st and April 30th of each year with reference to the quantity held or owned on January 1st in the year for which the property is required to be rendered. Any property purchased or acquired on January 1st of such year shall be listed by or for the person purchasing or acquiring it. If any property has, by reason of any special law, contract or fact, been exempt or has been claimed to be exempted for taxation for any period or limit of time, and such period of exemption shall expire between January 1st and December 31st of any year, said property shall be assessed and listed for taxes as other property; but the taxes assessed against said property shall be for only the pro rata of taxes for the portion of such year remaining.

"(b) Provided, further, that if the United States Government or any of its agencies or any other body politic having the power of condemnation shall take over the possession of property under authority of any law authorizing it to condemn said prop-

erty, or under an option to buy said property from the owner, or under an agreement by the owner to sell said property, or shall comply with the laws relating to condemnation to such an extent as to entitle it to the possession of said property, or to constitute a taking thereof from the owner or person in whose name title rests, then such condemning authority shall be considered the owner of said property for the purposes of all taxation from the date of taking such possession thereof, or from the date of its complying with the condemnation laws to the extent that there has been a taking of said property from the owner, whichever occurs first."

Section 2.06. INQUIRIES BY ASSESSORS. Amend Section 4, Chapter CLIII, Acts of the 15th Legislature, Regular Session, 1876, as last amended, (Article 7183, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7183. Inquiries by Assessors.

"The Assessor for any Tax Unit shall make all inquiries and inspections necessary to obtain a full, complete and correct assessment of all property subject to taxation by his Unit and shall require the owner, agent or other person possessing or controlling any such property to answer under oath all inquiries, written or oral, necessary for a full, complete and correct assessment of such property, but until the inquiries propounded have been answered and the inspections requested have been allowed, the Tax Unit shall only receive and file renditions for such property and thereafter treat such property as unrendered until the inquiries have been answered and the inspections have been allowed."

Section 2.07. WHERE OATH MAY BE MADE. Amend Article 7185, Revised Civil Statutes of Texas, 1925 (Article 7185, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7185. Where Oath May Be Made.

"Section 1. The owner, agent or other person required to render property to any Tax Unit shall do so by making a sworn rendition on the prescribed form before:

"(1) The Assessor or a deputy at the Unit's Tax Office(s), or (2) any officer authorized to administer oaths in this state or any officer outside this State who is authorized by law to take acknowledgments of instruments for record in this State, in which case the rendition shall be forwarded to the Assessor by mail or otherwise.

"Section 2. If the Assessor is satisfied that such property is correctly and properly valued according to the standards hereinafter noted, he shall assess the same accordingly; but if the Assessor believes the value of any property is too low, he shall list it at such value as he, as a sworn officer, deems just and shall so advise the person making the rendition; and if the person so notified then makes oath that the assessment is excessive, the value shall be decided by the Board of Equalization, which valuation shall be final, PROVIDED that the Board shall not consider renditions, appeals or complaints concerning valuation of any property until the owner, agent or other person possessing or controlling such property shall have answered the inquiries propounded and allowed the inspections requested.

"Section 3. In valuing property the Assessor shall be governed by Articles 7149 and 7174, Revised Civil Statutes of Texas, 1925, as amended (Articles 7149 and 7174, Vernon's Texas Civil Statutes), except that if he shall find the property has no market value, then he shall assess the property at what he deems to be its real or intrinsic value."

Section 2.08. RECEIPT OF RENDITIONS. Amend Article 7189, Revised Civil Statutes of Texas, 1925 (Article 7189, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7189. Receipt of Renditions.

"Each Tax Assessor shall receive and file only renditions of taxable property made from January 1st through April 30th of each year, and property on all other listings shall be treated as if it were unrendered. After the Assessor has received answers to all inquiries propounded and has been allowed to make inspections requested, he shall assess the property as otherwise provided by law."

Section 2.09. RENDITION NOT MADE. Amend Article 7192, Revised Civil Statutes of Texas, 1925 (Article

7192, Vernon's Texas Civil Statutes) so as to read hereafter as follows:..

"Article 7192. Rendition Not Made.

"Section 1. In every case where the person required by law to render property for taxation has failed, refused or neglected to do so each year in the time and manner prescribed by law, the Unit shall collect a penalty of ten percent (10%) of the tax imposed on such property, the penalty to be not less than Two Dollars (\$2.00) nor more than Five Hundred Dollars (\$500.00) and be a charge upon both the property and the delinquent, PROVIDED, that if a proper rendition is made to the Assessor and accepted by the Board of Equalization before the final approval of the tax roll, the Board may excuse the penalty upon good cause shown for delay in rendering.

"Section 2. Article 7191, Revised Civil Statutes of Texas, 1925 (Article 7191, Vernon's Texas Civil Statutes) and Article 125, Revised Penal Code of Texas, 1925 (Article 125, Vernon's Texas Penal Code) are hereby expressly repealed."

Section 2.10. MANNER AND FORM OF ASSESSING. Amend Article 7204, Revised Civil Statutes of Texas, 1925 (Article 7204, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7204. Manner and Form of Assessing.

"The manner and form of assessing property rendered for taxation shall be substantially as follows, to-wit:

- "1. The name of the owner.
- "2. Abstract number.
- "3. From whom and how acquired.
- "4. The name of the original grantee.
- "5. The number of acres.
- "6. The value of the land.
- "7. The number of the lot or lots.
- "8. The number of the block.
- "9. The value of each town lot.
- "10. The name of the city or town.
- "11. Number of miles of railroad in the county.
- "12. The value of railroads and appurtenances, including the proportionate amount of rolling stock to the county after the assessment of such rolling stock and its apportionment among the several counties by the Comptroller as otherwise provided in this Title.

"13. Number of miles of telegraph in the county.

"14. Value of telegraph and appurtenances in the county.

"15. Number of horses and mules and value thereof.

"16. Number of cattle and value thereof.

"17. Number of jacks and jennets, and value thereof.

"18. Number of sheep and value thereof.

"19. Number of goats and value thereof.

"20. Number of hogs and value thereof.

"21. Number of carriages, bicycles or tricycles, buggies or wagons of whatsoever kind and value thereof.

"22. Number of sewing machines and knitting machines and the value thereof.

"23. Number of clocks and watches and the value thereof.

"24. Number of organs, melodeons, pianos, and all other musical instruments of whatsoever kind and value thereof.

"25. The value of household and kitchen furniture over and above the amount of two hundred and fifty dollars.

"26. Office furniture and the value thereof.

"27. The value of gold and silver plate.

"28. The value of diamonds and jewelry.

"29. Every annuity or royalty, the description and value thereof.

"30. Number of steamboats, sailing vessels, wharf-boats, barges, or other water craft, and the value thereof.

"31. The value of goods and merchandise of every description which such person is required to list as a merchant in hand on the first day of January of each year.

"32. The value of material and manufactured articles which such person is required to list as a manufacturer.

"33. The value of manufacturer's tools, implements and machinery other than boilers and engines, which shall be listed as such.

"34. Number of steam engines and boilers and value thereof.

"35. The amount of moneys of bank, banker, broker, stock jobber or any other person.

"36. The amount of solvent credits of bank, banker, broker, stock job-

ber or any other person.

"37. The amount and value of bonds and stocks other than United States bonds.

"38. The amount and value of shares of capital stock companies and associations not incorporated by the laws of this State.

"39. The value of property of companies and corporations other than property hereinbefore enumerated.

"40. The value of stock and furniture of hotels and eating houses.

"41. Every franchise, the description and value thereof.

"42. The value of all other property not enumerated as above; provided, that any departure from this form by the Assessor shall not invalidate the assessment thus made."

Section 2.11. BOARD OF EQUALIZATION. Amend Article 7212, Revised Civil Statutes of Texas, 1925, as last amended, (Article 7212, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7212. Board of Equalization.

"Section 1. The Board of Equalization of any Tax Unit shall have the power and it is made its official duty to supervise the assessments of property with a taxable situs in such Tax Unit in accordance with the provisions of Article 7206, Revised Civil Statutes of Texas, 1925, (Article 7206, Vernon's Texas Civil Statutes), and the standards of value set out in Articles 7149 and 7174, Revised Civil Statutes of Texas, 1925 (Article 7149 and 7174) Vernon's Texas Civil Statutes) and as otherwise provided in Section 2.07 of this Act. To aid the Board in the performance of its duties, the governing body of the Tax Unit may contract for expert assistance to compile and process taxation data for the Board and to provide for compensation for such professional services out of the proper fund(s) of the Unit.

"Section 2. To pay any contractual obligation to be incurred for such professional services under the provisions hereof, the governing body of the Tax Unit is hereby authorized to issue time warrants payable from the general fund of the Unit in the manner provided by the Bond and Warrant Law of 1931; provided, however, that warrants so issued shall mature within six (6) years from their respective dates, and provided further, that payments also may be made in any other manner allowed by law."

Section 2.12. **NEGLECT OF DUTY BY ASSESSOR.** Amend Article 7213, Revised Civil Statutes of Texas, 1925 (Article 7213, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7213. Neglect of Duty by Assessor.

"If any Tax Assessor in this State shall fail, refuse or neglect to place upon any rendition as provided in Section 2.07 of this Act the true value or market value or intrinsic value in accordance with the method of fixing such value as provided for in this Title, or shall fail, refuse or neglect to return to the Board of Equalization such rendition, together with the oath of the owner or person listing such property for taxes when such oath has been made, as provided for in this Title, or if the Assessor accepts the rendition from any person rendering property for taxation in person without reading to such person the oath and having it signed and sworn to as provided by law, such failure, refusal or neglect shall be deemed malfeasance on the part of such officer, and shall be cause for his removal from office."

Section 2.13. **ASSESSMENTS IN CERTAIN CASES.** Amend Article 7346, Revised Civil Statutes of Texas, 1925, so as to read hereafter as follows:

"Article 7346. Assessments in Certain Cases.

"Section 1. Whenever the governing body of any Tax Unit shall learn from the Assessor-Collector or otherwise that any property having a taxable situs in the Unit has escaped taxation for any year(s) because of (1) omission from the tax rolls or (2) an attempted assessment of such property has been found to be invalid, the governing body may order that a proper assessment of such property be made for each year for which it has escaped taxation. Such assessments shall (1) set out the correct description and record ownership of the property for each particular year involved, and (2) shall provide a valuation for the property for each year in accord with values of other properties taxed by the Unit for that particular year as near as such value may now be reasonably determined. All Tax Units proceeding hereunder are authorized to contract for expert assistance in compiling and processing data for the year(s) when it escaped taxation, the expense of this as-

sistance to be a part of the costs authorized to be charged against each such property being assessed or 're-assessed' and also to be taxed against each record owner for the year(s) when he was personally liable for the taxes.

"Section 2. When each assessment (or 're-assessment') has been completed, it shall be presented to the Board of Equalization by the Assessor for consideration in the manner of other unrendered property, and after the assessment has been examined and corrected and the value for each particular year has been finally determined by the Board, the assessment list shall be returned to the Assessor to be made up into a Complementary Tax Roll with the taxes to be computed and extended at the tax rate(s) in effect for each particular year listed in the assessments. A penalty of ten percent (10%) of the tax on any property for any given year, beginning with the year the tax should have been assessed, shall be added for that year and each year thereafter in which that particular tax has remained unpaid; PROVIDED, however, that no 're-assessment' for any year shall be held against an innocent purchaser of such property if prior to his purchase he examined the tax rolls, or had them examined, and the rolls showed an assessment against the property sufficient to identify it and that the taxes for such year had been paid; and PROVIDED FURTHER, that in cases of 're-assessment' of property previously rendered, the person rendering the property or his successors in title must be notified when the 're-assessment' is presented to the Board of Equalization and be given an opportunity to be heard and to present evidence with regard to such 're-assessment.'

"Section 3. Each Complementary Tax Roll compiled hereunder, when finally approved by the Board of Equalization in the manner followed for other unrendered property, shall be returned to the Collector, who shall mail to all record owners assessed on each property a notice of the taxes, penalties and costs due under these assessments, such notices to record owners to be sent to their last known addresses as shown on the records of the Tax Unit or at the County Clerk's office.

"Section 4. Unless the taxes thus assessed are paid within thirty (30) days thereafter, the Assessor shall ad-

vertise a list of the record owners and a brief description of each property assessed or 're-assessed,' or both, such advertisement to be published in a newspaper published in the county, after which suit may be filed in the same manner as provided by law for the collection of delinquent taxes.

"Section 5. All taxes assessed against a property pursuant to the foregoing provisions of Section 2.13 of this Act, together with all penalties and assessment data costs and advertising expenses as hereinabove authorized shall be a paramount lien on such property from January 1st of each year for which an assessment was made.

"Section 6. To insure that all assessments of property omitted from the tax rolls are considered and equalized and approved by the Board of Equalization prior to payment and receipt, the procedures herein provided must be used in all such cases hereafter, and Articles 7347, 7348, 7349, 7207, 7208, 7209 and 1047, Revised Civil Statutes of Texas, 1925, as amended (Articles 7347, 7348, 7349, 7207, 7208, 7209 and 1047, Vernon's Texas Civil Statutes) are hereby expressly repealed; and further, in case of conflict with any special or local laws or charters these procedures herein provided shall prevail.

Section 2.14. OTHER BOARDS OF EQUALIZATION. Amend Article 1048, Revised Civil Statutes of Texas, 1925, as last amended, so as to read hereafter as follows:

"Article 1048. Other Boards of Equalization.

"Section 1. Every Tax Unit (except counties) shall appoint a Board of Equalization to receive all renditions, assessment lists and books of the Unit's Assessor for inspection, correction, equalization and approval. The Board shall supervise the assessments of all property subject to taxation by the Unit and shall see that the owner of each such property has rendered it at its fair market value, or in appropriate cases at its true or intrinsic value, and shall equalize, as near as may be, the valuation of all such property. The Board shall have the power to send for persons, books and papers, swear and qualify persons and require answers by them to inquiries, written or oral, and may make inspections it deems necessary to ascertain the value of each property, and may lower or raise the value of such property, and the decisions of

the Board on values shall be final. The Board shall not consider renditions, appeals or complaints concerning valuation of any property until the owner, agent or other person possessing or controlling such property shall have answered the inquiries propounded and allowed the inspections requested.

"Section 2. The governing body of each Tax Unit shall be empowered to determine the number of members and alternates to serve on the Unit's Board of Equalization, to appoint as members and alternates only qualified voters who are residents of the Unit, to designate a chairman and vice-chairman of the Board, to fill vacancies, to provide for compensation of members and alternates and for all persons employed to assist the Board, and to prescribe the oath to be administered to each member and alternate before they enter upon their duties.

"Section 3. When any Board member is absent or disqualifies himself on any matter, the presiding officer of the Board shall designate an alternate to serve as a voting member of the Board in connection with the matter(s) then under consideration.

"Section 4. The Board named for each tax year shall continue to serve until a new Board is named, and after giving final approval to the Unit's tax roll for the year, the Board shall reconvene as necessary to consider assessments on property omitted or 're-assessed.'

"Section 5. Articles 1049, 1050, 1056, 1057, 1058 and 1059, Revised Civil Statutes of Texas, 1925, as last amended, are hereby specifically repealed."

PART III—COLLECTIONS

Section 3.01. INSTALLMENT PAYMENTS OF DELINQUENT TAXES. Amend Chapter 442, Acts of the 45th Legislature, Regular Session, 1937 (Article 7345c, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7345c. Installment Payments of Delinquent Taxes.

"Section 1. Any Tax Unit may operate a plan as herein provided for installment payments of ad valorem taxes on property delinquent, omitted or 're-assessed':

"(a) The property owner or delinquent taxpayer must make a writ-

ten application for installment payments, which application shall list the names and addresses of all other persons and legal entities, including lienholders, owning, having or claiming an interest in such property.

"(b) The applicant then must sign a contract with the Tax Unit to pay such taxes (and any additional charges thereon) in regular monthly installments with a service fee of one percent (1%) per month on the unpaid balance.

"(c) The contract shall contain a stipulation that such taxes have been validly levied and assessed and that the taxes, penalties (including interest), fees and other costs and Authorized Collection Expenses have legally accrued and have been computed correctly and are due and owing to the Tax Unit.

"(d) The contract also shall provide that the Unit retains its paramount lien as security for payment of such taxes and additional charges and that in case of default the lien maybe foreclosed and the property sold by the Tax Assessor-Collector in the manner provided by law for deeds of trust and that it shall not be necessary for the lien to be foreclosed in the courts as now required by Section 1, Chapter 48, Acts of the 41st Legislature, 1929 (Article 7328a, Vernon's Texas Civil Statutes), although the Tax Unit also may seek court foreclosure if desired.

"(e) If the taxpayer fails to make timely payments as provided in the contract and remains in default on any installment for more than sixty (60) days, the Tax Unit may declare the outstanding balance due and payable and the Unit may then have foreclosure of its lien as hereinabove provided after first giving notice by certified mail to all persons and other legal entities, including lienholders, known to have, own or claim an interest in the property subject to foreclosure.

"(f) Sales by the Tax Assessor-Collector must be for at least the amount owed under the contract, and if there is no bid for that amount or more, the Assessor-Collector shall bid the property in for the Tax Unit, which may thereafter resell it in the manner provided in Section 1, Chapter 454, Acts of the 50th Legislature, 1947 (Section 9, Article 7345b, Vernon's Texas Civil Statutes).

"(g) Deeds given by the Tax Assessor-Collector shall provide for redemption within two (2) years from the date the purchaser's deed is filed for record, such redemption to be in the manner prescribed and upon the terms and conditions set out in Section 2, Chapter 454, Acts of the 50th Legislature, 1947, Regular Session (Sections 12 and 12a, Article 7345b, Vernon's Texas Civil Statutes).

Section 3.02. DELINQUENCY DATE, PENALTY, DELINQUENT TAX ROLL. Amend Section 3, Chapter 42, Acts of the 24th Legislature, 1895, Regular Session (Article 7336, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7336. Delinquency Date, Penalty, Delinquent Tax Roll.

"Section 1. All ad valorem taxes to be collected by the County Tax Assessor-Collector shall be delinquent if not paid by February 1st of the year next following the year for which the assessment was made. This delinquency date shall not apply in cases of assessments of omitted property and where 're-assessments' have been made after prior attempted assessments have been found to be invalid.

"Section 2. The Automatic Tax Board constituted under Article 7041, Revised Civil Statutes of Texas, 1925, is hereby empowered to set penalty for delinquent taxes subject to this Act and may change the penalty at any time. Until the Board shall have acted, the penalty for delinquent taxes collected under this Act shall be Twenty Percent (20%) during the first year of delinquency on each property involved and Ten Percent (10%) during each additional year of delinquency, not to exceed a total penalty of Two Hundred Percent (200%); there shall be no interest eo nomine. Any changes in the penalty rate made by the Board shall be promulgated in notices from the Comptroller.

"Section 3. The County Tax Assessor-Collector shall maintain records of delinquent ad valorem taxes on the forms and in the manner prescribed by the Comptroller. These records, or copies of them certified by the Assessor-Collector, shall be prima facie evidence that the taxes listed were validly levied and assessed and that all legal conditions precedent have occurred or have been met and that

the taxes sued for are justly due and owing. If the description of any property in the delinquent tax records is not sufficient to identify such property, other records in the tax office, or certified copies thereof, containing an adequate legal description shall be admissible in evidence to show the description of the property.

"Section 4. The County Tax Assessor-Collector may contract for assistance in preparing and maintaining the delinquent tax roll, such contracts to be approved by the Commissioners Court and by the Comptroller and to provide for a compensation not to exceed the maximum fee prescribed by the Comptroller from time to time.

"Section 5. Chapter 24 and Section 2, Chapter 128, Acts of the 44th Legislature, 1935, Regular Session, as last amended (Article 7336e and Section 2, Article 7336f, Vernon's Texas Civil Statutes, as last amended) are hereby specifically repealed."

Section 3.03. DEFENSES TO TAX SUITS. Amend Article 7329, Revised Civil Statutes of Texas, 1925, so as to read hereafter as follows:

"Article 7329. Defenses to Tax Suits.

"There shall be no defense to a suit for collection of delinquent taxes, as provided in this Title, except:

"(1) That the defendant was not the owner of the property (a) at the time the taxes accrued, nor (b) at the time the suit was filed.

"(2) That the taxes sued for have been paid, or

"(3) That the taxes sued for are in excess of the limit allowed by law, but this defense shall apply only to such excess."

Section 3.04. FORCED COLLECTIONS TO BEGIN. Amend Article 4746, Revised Civil Statutes of Texas, 1879, as amended (Article 7266, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7266. Forced Collections to Begin.

"If any person shall fail or refuse to pay the taxes imposed upon him or his property by law, until the first day of February next succeeding the approval of the assessment roll of the Tax Unit, the Tax Collector by virtue of his roll shall seize and levy upon and sell so much personal property

belonging to such person as may be sufficient to pay his taxes, together with the penalty and all costs accruing thereon."

Section 3.05. PROPERTY ABOUT TO BE REMOVED. Amend Article 4748, Revised Civil Statutes of Texas, 1879, as amended (Article 7268, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7268. Property about to be Removed.

Section 1. If it comes to the knowledge of the Tax Collector that any property assessed for taxes on the rolls is about to be removed beyond the boundaries of the Tax Unit, and the owner of such property has not other property in the Tax Unit's jurisdiction sufficient to satisfy all taxes assessed or assessable against him, the Collector shall immediately levy upon a sufficiency of such property to satisfy such taxes, penalty and all costs, and the same sell in accordance with the law regulating sales of personal property for taxes unless the owner of such property shall give bond, with sufficient security payable to and to be approved by the Collector, and conditioned for the payment of the taxes due on such property on or before the first day of February next succeeding. When the tax due for any year has not yet been calculated, the Tax Collector may collect and receipt for the same amount of taxes assessed on such property for the preceding year.

"Section 2. Forms of housing commonly called 'trailers' or 'mobile homes,' which are or can be used for residential, business, commercial or office purposes and which had a taxable situs in any Tax Unit in this State on January 1st of any year, shall not be removed beyond the boundaries of any such Tax Unit until all taxes assessed or assessable by that Unit against the owner and his property have been paid or bond shall have been posted in the manner provided above. To this end the proper officials of the State shall not issue any permit to move the 'trailer' or 'mobile home' upon the public highways until a release is received from every Tax Unit to whom the owner is liable for taxes assessed or assessable."

Section 3.06. EXECUTION IN OTHER JURISDICTIONS. Amend

Section 1, Chapter 129, Acts of 29th Legislature, 1905, Regular Session (Article 7270, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7270. Execution in Other Jurisdictions.

"Section 1. Whenever it shall appear to the Collector of any Tax Unit that any delinquent taxpayer does not have personal property in the Tax Unit's jurisdiction out of which the taxes can be collected, the Collector shall forward a certified statement of the delinquent taxes, penalty, interest and costs to the Assessor-Collector of any county where personal property of the delinquent is known to be located, and the Assessor-Collector shall proceed at once to collect the delinquent taxes by seizure and sale in the same manner as if the taxes had been originally assessed and due in his county, and shall remit the proceeds of sale to the Collector from whom the certified statement of delinquent taxes were received.

"Section 2. The Assessor-Collector making the seizure and sale shall receive a fee of Fifty Dollars (\$50.00) or Ten Percent (10%) of the amount of delinquent taxes, penalty and interest collected, whichever sum is greater, and this additional cost shall be an Authorized Collection Expense and shall be collected along with the delinquent taxes, penalty and other costs. Any County Assessor-Collector who shall fail, refuse or neglect to seize and sell personal property for delinquent taxes under provisions hereof shall be liable on his bond for the delinquent taxes, penalty and costs shown on the certified statement submitted to him."

Section 3.07. ALL PROPERTY LIABLE FOR TAXES. Amend Chapter L, Acts of the 16th Legislature, 1879, as last amended (Article 7272, Vernon's Texas Civil Statutes), so as to read hereafter as follows:

"Article 7272. All Property Liable for Taxes.

"Section 1. All real and personal property held or owned by any person or other legal entity in this State shall be liable for all ad valorem taxes due by the owner thereof, and until the taxes are paid such property shall be subject to paramount liens of all Tax Units concerned from January 1st in each year for which the taxes are assessed or assessable. Tax

Units may sue to foreclose such liens or they may seize and sell any of the delinquent taxpayer's personal property, or do both, regardless of where the property may be located.

"Section 2. Real property situated outside the county of the delinquent's legal residence shall not be subject to any such general tax lien until notice of such lien is filed with the County Clerk in the county where the delinquent's land is known to be located; and such notice of lien shall be recorded in the State Tax Lien Records of that county. Fees for filing and recording these lien notices shall not be paid by the Tax Unit submitting the same, but shall remain as a paramount charge against the real property until paid. Any clerk who fails, neglects or refuses to aid in the collection of taxes by promptly filing and recording any such liens or notices submitted to him shall be liable upon his bond for all losses sustained by the Tax Units as a result of his failure to comply with these provisions of this Act."

Section 3.08. NO LIABILITY FOR SEIZURE. Amend Article 7275, Revised Civil Statutes of Texas, 1925, so as to read hereafter as follows:

"Article 7275. No liability for Seizure.

"No official of any Tax Unit shall be subject to suit for damages by any person whose personal property has been levied upon, seized and sold for the taxes owed by that person."

Section 3.09. LIMITATION NOT AVAILABLE. Amend Chapter 3, Acts of the 24th Legislature, First Called Session, 1895, as last amended (Article 7298, Vernon's Texas Civil Statutes) so as to read hereafter as follows:

"Article 7298. Limitation not Available.

"No one shall plead in any Court or in any manner rely upon any Statute of Limitation as a defense to the payment of ad valorem taxes due to any Tax Unit."

Section 3.10. CERTAIN AUTHORIZED COLLECTION EXPENSES. Amend Section 9, Chapter 42, Acts of the 24th Legislature, Regular Session, 1895, as last amended (Article 7332, Vernon's Texas Civil Statutes), so as to read hereafter as follows:

"Article 7332. Certain Authorized Collection Expenses.

"Section 1. Whenever the governing body of any Tax Unit shall deem it necessary, any account for delinquent taxes on specified property may be placed in the hands of a contract or staff attorney for collection, through suit or otherwise, and the Unit shall be entitled to and shall collect an attorney's fee of Twenty-five percent (25%) of the delinquent taxes and penalty (including interest) due at the time of collection or judgment, which fee shall be an Authorized Collection Expense.

"Section 2. When requested to do so by any Tax Unit or its attorney, any sheriff, constable, district clerk, county clerk or other officer shall perform all necessary services of his office to help collect delinquent taxes on specified property and from owners personally liable and shall be entitled to the same scale of fees allowed by law for similar services in other matters, such fees to be Authorized Collection Expenses. Tax Units shall not be required to post deposits or prepay such expenses, but these officers shall perform the requested services and be paid as hereinafter provided.

"Section 3. Any Tax Unit directing its attorney to file suit to collect taxes on a delinquent property is authorized to contract for expert assistance in compiling and processing data as to the name, identity, and location of necessary parties to the suit, necessary legal description of the property and any other information required by Unit's attorney in preparing, filing and prosecuting such suit to judgment and foreclosure sale, the cost of such work to be an Authorized Collection Expense.

"Section 4. Each Authorized Collection Expense listed in this Act, together with any other cost allowed by law, shall become a preferred charge upon each and every specific delinquent property involved as soon as the expense is incurred and shall be paid only from money collected prior to sale or out of proceeds from the sale of delinquent property or from money collected from the delinquent taxpayer under a personal judgment. Signed and itemized statements of such expenses shall be filed with the Unit's Tax Assessor-Collector and certified copies thereof may be used as evidence in any suit as prima facie proof of the amount(s) of such ex-

penses which are a charge upon the specific delinquent property. Tax Units shall not be liable for any Authorized Collection Expenses or any other costs allowed by law except publication costs as provided in Chapter 150, Acts of the 54th Legislature, 1955 (Article 7345b-2, Vernon's Texas Civil Statutes).

"Section 5. No statute of limitations shall apply in any suit by a Tax Unit to recover money or fees collected by any officers performing services.

"Section 6. Articles 7333 and 7334, Revised Civil Statutes, 1925, are hereby expressly repealed."

Section 3.11. DELINQUENT TAX CONTRACTS. Amend Section 1, Chapter 8, Acts of the 41st Legislature, 4th Called Session, 1930 (Section 1 of Article 7335a, Vernon's Texas Civil Statutes), so as to read hereafter as follows:

"Article 7335a. Delinquent Tax Contracts.

"Section 1. No Tax Unit shall make or enter into any contract with an attorney for the collection of delinquent taxes where the compensation is more than Twenty-five Percent (25%) of the amount collected. Any such contract by a county must be approved as to substance and form by both the Comptroller and the Attorney General of the State of Texas. Neither the County nor District Attorney shall receive any compensation for any services either may render in connection with the performance of the contract or the taxes collected thereunder."

Section 3.12. OTHER DELINQUENT TAX CONTRACTS. Amend Section 1, Chapter 145, Acts of the 52nd Legislature, Regular Session, 1951 (Article 7335b, Vernon's Texas Civil Statutes), so as to read hereafter as follows:

"Article 7335b. Other Delinquent Tax Contracts.

"Any Tax Unit in this State not employing a full-time attorney, or where such full-time attorney fails or refuses to collect the delinquent taxes, such Tax Unit may contract with any competent attorney of this State for the collection of such delinquent taxes for a compensation not to exceed Twenty-five Percent (25%) of the amount collected; and any part-time

attorney employed by the Tax Unit may enter into such a contract."

Section 3.13. COSTS AND EXPENSES. Amend Section 6, Chapter 506, Acts of the 45th Legislature, Regular Session, 1937 (Section 6, Article 7345b, Vernon's Texas Civil Statutes), so as to read hereafter as follows:

"Section 6. All court costs, including but not limited to costs of serving process, depositions, interrogatories, master's fees, expenses of foreclosures, Authorized Collection Expenses as provided in this Act, and all other costs allowed by law, shall be chargeable and collected as court costs."

Section 3.14. LIMITED SUIT ALLOWED. Amend Section 1, Chapter 534, Acts of the 47th Legislature, Regular Session, 1941 (Section 10, Article 7345b, Vernon's Texas Civil Statutes), so as to read hereafter as follows:

"Section 10. It is hereby declared to be the policy of the State that all claims and liens for ad valorem taxes which may be asserted against any property should be included in any suit filed to collect taxes on property delinquent, omitted or 're-assessed,' but if unreconcilable variations in assessment descriptions and ownership or other similar problems with tax records make it difficult or impossible to foreclose liens as provided by law, then the Tax Units which are parties to the suit need not seek recovery in such suit of all their claims and liens against the property involved, PROVIDED, that all notices of foreclosure sale(s) decreed in such suit shall caution that all tax claims and liens are not included in the suit, and PROVIDED FURTHER that the Tax Units which are parties to the suit shall itemize in such notices their liens and claims against the property which are not included in the suit."

Section 3.15. VENUE OF DELINQUENT TAX SUITS. Amend Section 1, Chapter 110, Acts of the 48th Legislature, Regular Session, 1943 (Article 7345b-1, Vernon's Texas Civil Statutes), so as to read hereafter as follows:

"Article 7345b-1.—Venue of Delinquent Tax Suits.

"All suits by or involving any Tax Unit for the collection of taxes on property delinquent, omitted or 're-assessed,' whether real or personal, being suits which include penalties

due to the State of Texas or its legal subdivisions, shall be brought in the District Court of the county in which such taxes were levied."

PART IV—MISCELLANEOUS PROVISIONS

Section 4.01. REFUNDS BY COMPTROLLER. Add a new article to Title 122, Revised Civil Statutes of Texas, 1925, to be numbered 7249b and to read as follows:

"Article 7249b. Refunds by Comptroller.

"When the Comptroller determines that State ad valorem taxes have been erroneously paid or overpaid through mistake of law or fact, the Comptroller may refund such erroneous payment or overpayment by warrant on the State Treasurer from any funds appropriated for such purpose. Application for refund must be filed with the Comptroller not more than one year after the date of the erroneous payment or overpayment."

Section 4.02. PERSONAL PROPERTY. Amend Article 1060, Revised Civil Statutes of Texas, 1925, so as to read hereafter as follows:

"Section 1060. Personal Property.

"The assessor and collector shall have power to levy upon any personal property to satisfy any tax imposed by this Title. All taxes shall be a paramount lien upon the property upon which they are assessed, effective from January 1st of each year for which the assessment is made, and may be foreclosed by decree of the court in a suit for delinquent taxes. In case any property levied upon is about to be removed beyond the boundaries of the Tax Unit, the assessor and collector shall proceed to take into his possession so much thereof as will pay the taxes assessed and the costs of collection."

Section 4.03. PROVISIONS AVAILABLE TO ALL TAX UNITS. Amend Chapter 281, Acts of the 44th Legislature, Regular Session, 1935, as last amended (Article 1060a, Vernon's Texas Civil Statutes), so as to read hereafter as follows:

"Article 1060a. Provisions Available to All Tax Units.

"Each, every and any provision of Title 122 and Chapter 5 of Title 28 of the Revised Civil Statutes of Texas, 1925, as amended and as may be amended, is hereby made available

to every Tax Unit when invoked by ordinance or resolution of Unit's governing body, and specifically, but not by way of limitation, it is hereby provided (without the necessity of an adoptive ordinance or resolution) that for the collection of its taxes every Tax Unit shall have the benefit of all liens and remedies provided in the said Title 122 and Chapter 5 of Title 28, as amended and as may be amended."

Section 4.04. **POWERS AND MANNER OF SCHOOL TAXATION.** A new article is hereby added to the Texas Education Code, 1969, to be numbered Article 20.09 and to read as follows:

"Article 20.09. Powers and Manner of School Taxation.

"The governing body of every Tax Unit subject to the provisions of the Texas Education Code, 1969, shall be vested with all the powers and manner of taxation that are conferred by the laws of this State upon the governing bodies of incorporated cities and towns."

Section 4.05. **PARTIAL INVALIDITY.** If any provision of this Act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 4.06. **EFFECTIVE DATE.** This Act shall become effective from and after its passage.

Section 4.07. **PROVISIONS OF ACT CUMULATIVE; EFFECT OF CONFLICT WITH OTHER ACTS: LAWS REPEALED.** The provisions of this Act shall be cumulative of and in addition to all other rights, remedies, procedures and powers to which any Tax Unit may be entitled, but in case of conflict the provisions of this Act shall control, and all laws or parts of laws in conflict herewith are hereby repealed to the extent necessary to accomplish the purposes of this Act. In addition to statutes specifically repealed hereinbefore, the following laws also are specifically repealed by this Act: Articles 7211 and 7265, Revised Civil Statutes of Texas, 1925, as amended; Chapter 229, Acts of the 42nd Legislature, 1931, Regular Session (Article 7264a, Vernon's Texas

Civil Statutes), and Section 2, Chapter 389, Acts of the 61st Legislature, Regular Session, 1969 (Article 7326a, Vernon's Texas Civil Statutes).

Section 4.08. **EMERGENCY.** The importance of this legislation and the crowded condition of the calendar in both Houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the Rule is hereby suspended.

The Committee Amendment was read and was adopted.

On motion of Senator Bates and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Record of Votes

Senators Patman and Grover asked to be recorder as voting "Nay" on the passage of the bill to engrossment.

Senate Bill 598 on Third Reading

Senator Bates moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 598 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—28

Aikin	Hightower
Bates	Jordan
Beckworth	Kennard
Bernal	Kothmann
Blanchard	Mauzy
Bridges	McKool
Brooks	Ratliff
Christie	Schwartz
Connally	Sherman
Creighton	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word

Nays—3

Grover	Patman
Moore	

The President Pro Tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Votes

Senators Patman and Grover asked to be recorded as voting "Nay" on the final passage of the bill.

Senate Bill 493 on Second Reading

Senator Kothmann moved to suspend the regular order of business and take up S. B. No. 493 for consideration at this time.

The motion prevailed by the following vote:

Yeas—20

Bates	Jordan
Beckworth	Kothmann
Bernal	Mauzy
Bridges	McKool
Brooks	Patman
Christie	Schwartz
Connally	Sherman
Hall	Wallace
Harrington	Watson
Herring	Wilson

Nays—10

Aikin	Hightower
Blanchard	Moore
Creighton	Ratliff
Grover	Snelson
Harris	Word

Absent

Kennard

The President Pro Tempore laid before the Senate on its second reading and passage to engrossment:

S. B. No. 493, A bill to be entitled "An Act establishing and providing for a State mentally retarded school; regulating and providing for the operation of same; and declaring an emergency."

The bill was read second time and was passed to engrossment by the following vote:

Yeas—20

Bates	Herring
Beckworth	Jordan
Bernal	Kennard
Bridges	Kothmann
Brooks	Mauzy
Connally	McKool
Hall	Patman
Harrington	Schwartz

Sherman	Watson
Wallace	Wilson

Nays—11

Aikin	Hightower
Blanchard	Moore
Christie	Ratliff
Creighton	Snelson
Grover	Word
Harris	

Motion to Place

Senate Bill 493 on Third Reading

Senator Kothmann moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 493 be placed on its third reading and final passage.

The motion was lost by the following vote (not receiving four-fifths vote of the Members present):

Yeas—20

Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Bridges	McKool
Brooks	Patman
Connally	Schwartz
Hall	Sherman
Harrington	Wallace
Herring	Watson
Jordan	Wilson

Nays—11

Aikin	Hightower
Blanchard	Moore
Christie	Ratliff
Creighton	Snelson
Grover	Word
Harris	

Senate Bill 839 on Second Reading

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 839, A bill to be entitled "An Act relating to requiring insurers to maintain and designate specific assets as reserve assets offsetting reserve liabilities; etc.; and declaring an emergency."

The bill was read second time.

(President in Chair.)

Senator Watson offered the following Committee Amendment to the bill:

Amend S. B. 839 by striking out all of S. B. 839 below the enacting clause and substituting in lieu thereof the following:

Section 1. That Chapter 21 of the Insurance Code (Acts 1951, 52nd Legislature, Chapter 491, page 868), as heretofore amended, be and the same is hereby amended by adding to the said Chapter 21 a new article to be designated Article 21.39-A, to read as follows:

"Article 21.39-A. Asset Protection Act.

"Section 1. Title. This Article shall be known and may be cited as the Asset Protection Act.

"Section 2. Purpose. This Act is for the purpose of requiring insurers to have and maintain unencumbered assets in an amount equal to reserve liabilities; to provide preferential claims against assets in favor of owners, beneficiaries, assignees, certificate holders, or third party beneficiaries of insurance policies; and to prevent the hypothecation or encumbrance of assets in excess of certain amounts without prior written order of the Commissioner of Insurance.

"Section 3. Scope. This Act shall apply to all of the following types of domestic insurance companies and to all kinds of insurance written by such companies and where used herein 'insurer' shall mean: all domestic stock and mutual life, health and accident, fire, casualty, fire and casualty and title insurance companies, including mutual assessment companies, local mutual aid associations, local mutual burial associations, statewide mutual assessment companies, stipulated premium insurance companies, fraternal benefit societies, group hospital service insurance companies, county mutual insurance companies, Lloyd's and reciprocal exchanges and mortgage guaranty insurance companies. This Act shall not apply to variable contracts for which separate accounts are required to be maintained and shall not apply to assessment as needed or farm mutual companies nor to insurance coverage written by assessment as needed or farm mutual companies. This Act shall not apply to an insurance company while subject to a conservatorship order issued by the Commissioner of Insurance nor to an insurance company while a court ap-

pointed receiver is in charge of its affairs.

"Section 4. Definitions, As Used in This Act.

"1. 'Reserve liabilities' are those liabilities which are required to be established by the insurer for all of its outstanding insurance policies in accordance with the Insurance Code, as amended or as hereafter amended.

"2. 'Reserve assets' are those assets of an insurer which are authorized investments for policy reserves in accordance with the Insurance Code, as amended or as hereafter amended.

"3. 'Assets' are all the property, real or personal, tangible or intangible, legal or equitable, owned by an insurer.

"4. 'Claimants' are any owners, beneficiaries, assignees, certificate holders, or third party beneficiaries of any insurance benefit or right arising out of or within the coverage of an insurance policy covered by this Act.

"Section 5. Prohibition of Hypothecation. Every insurer subject to the provisions of this Act shall at all times have and maintain free and unencumbered assets in an amount equal to its reserve liabilities, and no such insurer shall pledge, hypothecate, or otherwise encumber its assets in an amount in excess of the amount of its capital and surplus; nor shall such insurer pledge, hypothecate or otherwise encumber more than 10% of its reserve assets as herein defined; provided, however, that the Commissioner, upon application made to him, may issue a written order approving the hypothecation or encumbrance of any of the assets of such an insurer in any amount upon a finding that such hypothecation or encumbrance will not adversely affect the solvency of such insurer.

"Any such insurer which shall pledge, hypothecate, or otherwise encumber any of its assets shall within ten days thereafter report in writing to the Commissioner the amount and identity of the assets so pledged, hypothecated, or encumbered and the terms and conditions of such transaction. In addition, each such insurer shall annually or more often if required by the Commissioner file with the Commissioner a statement sworn to by the chief executive officer of the insurer that (a) title to assets in an amount equal to the reserve liability

of the insurer which are not pledged, hypothecated or otherwise encumbered is vested in the insurer, (b) the only assets of the insurer which are pledged, hypothecated or otherwise encumbered are as identified and reported in such sworn statement and no other assets of the insurer are pledged, hypothecated, or otherwise encumbered, and (c) the terms and provisions of any such transaction of pledge, hypothecation, or encumbrance are as reported in such sworn statement.

"Any person, corporation, association or legal entity which accepts a pledge, hypothecation or encumbrance of any asset of an insurer as security for a debt or other obligation of such insurer not in accordance with the terms and limitations of this Act shall be deemed to have accepted such asset subject to a superior, preferential and automatically perfected lien in favor of claimants; provided, however, that such superior, preferential and automatically perfected lien in favor of claimants shall not apply to assets of an insurance company in conservatorship or receivership if the Commissioner of Insurance, in the conservatorship proceeding, or the court, in which the receivership is pending, approves the pledge, hypothecation or encumbrance of such assets.

"In the event of involuntary or voluntary liquidation of any insurer subject to this Act, claimants of such insurer shall have a prior and preferential claim against all assets of the insurer except those which have been pledged, hypothecated or encumbered in accordance with the terms and limitations of this Act. All claimants shall have equal status and their prior and preferential claim shall be superior to any claim or cause of action against the insurer by any person, corporation, association or legal entity.

"Section 6. Control Over Conflicts. The provisions of this Act and the powers and functions authorized by this Act are to be exercised to the end that its purposes are accomplished. This Act is cumulative of existing laws, but in the event of conflict between this Act and any other law relating to the subject matter of this Act or its application, the provisions of this Act shall control.

"Section 7. Unconstitutional Application Prohibited. This Act and law does not apply to any insurer or other person to whom, under the Constitution of the United States or the Constitution of the State of Texas, it cannot validly apply.

"Section 8. Severance Clause. If any provision of this Act or the application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Section 2. Emergency Clause. The importance of this legislation and the crowded condition of the calendars in both Houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Committee Amendment was read.

Senator Watson offered the following substitute for the Committee Amendment:

Amend S. B. No. 839 by striking out all of S. B. 839 below the enacting clause and substituting in lieu thereof the following:

Section 1. That Chapter 21 of the Insurance Code (Acts 1951, 52nd Legislature, Chapter 491, page 868), as heretofore amended, be and the same is hereby amended by adding to the said Chapter 21 a new article to be designated Article 21.39-A, to read as follows:

"Article 21.39-A. Asset Protection Act.

"Section 1. Title. This Article shall be known and may be cited as the Asset Protection Act.

"Section 2. Purpose. This Act is for the purpose of requiring insurers to have and maintain unencumbered assets in an amount equal to reserve liabilities; to provide preferential claims against assets in favor of owners, beneficiaries, assignees, certificate holders, or third party beneficiaries of insurance policies; and to prevent the

hypothecation or encumbrance of assets in excess of certain amounts without prior written order of the Commissioner of Insurance.

"Section 3. Scope. This Act shall apply to all of the following types of domestic insurance companies and to all kinds of insurance written by such companies and where used herein 'insurer' shall mean: all domestic stock and mutual life, health and accident, fire, casualty, fire and casualty and title insurance companies, including mutual assessment companies, local mutual aid associations, local mutual burial associations, statewide mutual assessment companies, stipulated premium insurance companies, fraternal benefit societies, group hospital service insurance companies, county mutual insurance companies, Lloyd's and reciprocal exchanges and mortgage guaranty insurance companies. This Act shall not apply to the part of variable contracts for which separate accounts and identified portfolios of investment are required to be maintained; and shall not apply to assessment as needed or farm mutual companies, nor to insurance coverage written by assessment as needed or farm mutual companies.

"Section 4. Definitions, As Used in This Act.

"1. 'Reserve liabilities' are those liabilities which are required to be established by the insurer for all of its outstanding insurance policies in accordance with the Insurance Code, as amended or as hereafter amended.

"2. 'Reserve assets' are those assets of an insurer which are authorized investments for policy reserves in accordance with the Insurance Code, as amended or as hereafter amended.

"3. 'Assets' are all the property, real or personal, tangible or intangible, legal or equitable, owned by an insurer.

"4. 'Claimants' are any owners, beneficiaries, assignees, certificate holders, or third party beneficiaries of any insurance benefit or right arising out of and within the coverage of an insurance policy covered by this Act.

"Section 5. Prohibition of Hypothecation. Every insurer subject to the provisions of this Act shall at all times have and maintain free and unencumbered assets in an amount equal to its reserve liabilities, and no such insurer shall pledge, hypothecate, or otherwise encumber its assets in an

amount in excess of the amount of its capital and surplus; nor shall such insurer pledge, hypothecate or otherwise encumber more than 10% of its reserve assets as herein defined; provided, however, that the Commissioner, upon application made to him, may issue a written order approving the hypothecation or encumbrance of any of the assets of such an insurer in any amount upon a finding that such hypothecation or encumbrance will not adversely affect the solvency of such insurer.

"Any such insurer which shall pledge, hypothecate, or otherwise encumber any of its assets shall within ten days thereafter report in writing to the Commissioner the amount and identity of the assets so pledged, hypothecated, or encumbered and the terms and conditions of such transaction. In addition, each such insurer shall annually or more often if required by the Commissioner file with the Commissioner a statement sworn to by the chief executive officer of the insurer that (a) title to assets in an amount equal to the reserve liability of the insurer which are not pledged, hypothecated or otherwise encumbered is vested in the insurer, (b) the only assets of the insurer which are pledged, hypothecated or otherwise encumbered are as identified and reported in such sworn statement and no other assets of the insurer are pledged, hypothecated, or otherwise encumbered, and (c) the terms and provisions of any such transaction of pledge, hypothecation, or encumbrance are as reported in such sworn statement.

"Any person, corporation, association or legal entity which accepts a pledge, hypothecation or encumbrance of any asset of an insurer as security for a debt or other obligation of such insurer not in accordance with the terms and limitations of this Act shall be deemed to have accepted such asset subject to a superior, preferential and automatically perfected lien in favor of claimants. A superior, preferential and automatically perfected lien in favor of claimants will not apply to the pledge, hypothecation, or encumbrance of assets of an insurance company made in or during conservatorship or receivership if the Commissioner of Insurance, in the conservatorship proceeding, or the court, in which the receivership is pending, approves such pledge, hypothecation or encumbrance of such assets.

"In the event of involuntary or voluntary liquidation of any insurer subject to this Act, claimants of such insurer shall have a prior and preferential claim against all assets of the insurer except those which have been pledged, hypothecated or encumbered in accordance with the terms and limitations of this Act. All claimants shall have equal status and their prior and preferential claim shall be superior to any claim or cause of action against the insurer by any person, corporation, association or legal entity.

"Section 6. Control Over Conflicts. The provisions of this Act and the powers and functions authorized by this Act are to be exercised to the end that its purposes are accomplished. This Act is cumulative of existing laws, but in the event of conflict between this Act and any other law relating to the subject matter of this Act or its application, the provisions of this Act shall control.

"Section 7. Unconstitutional Application Prohibited. This Act and law does not apply to any insurer or other person to whom, under the Constitution of the United States or the Constitution of the State of Texas, it cannot validly apply.

"Section 8. Severance Clause. If any provision of this Act or the application thereof to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Section 2. Emergency Clause. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The substitute for the Committee Amendment was read and was adopted.

The Committee Amendment as substituted was then adopted.

On motion of Senator Watson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Senate Bill 839 on Third Reading

Senator Watson moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 839 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

Motion to Place Senate Bill 123 on Third Reading

Senator Word moved to suspend the regular order of business and take up S. B. No. 123 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—18

Aikin	Harris
Bates	Hightower
Beckworth	Moore
Blanchard	Ratliff
Brooks	Schwartz
Christie	Sherman
Connally	Snelson
Creighton	Watson
Hall	Word

Nays—12

Bernal	Kothmann
Bridges	Mauzy
Grover	McKool
Harrington	Patman
Jordan	Wallace
Kennard	Wilson

Present—Not Voting

Herring

Motion to Place
Senate Joint Resolution 26
on Second Reading

Senator Wallace moved to suspend the regular order of business and take up S. J. R. No. 26 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—17

Beckworth	Mauzy
Bernal	McKool
Bridges	Patman
Brooks	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Jordan	Wilson
Kothmann	

Nays—13

Aikin	Hightower
Bates	Kennard
Blanchard	Moore
Connally	Ratliff
Creighton	Watson
Harris	Word
Herring	

Absent

Christie

Motion to Place
Senate Bill 70 on Second Reading

Senator McKool asked unanimous consent to suspend the regular order of business and take up S. B. No. 70 for consideration at this time.

There was objection.

Senator McKool then moved to suspend the regular order of business and take up S. B. No. 70 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—16

Beckworth	Kennard
Bernal	Kothmann
Bridges	Mauzy
Brooks	McKool
Harrington	Schwartz
Herring	Sherman
Hightower	Wallace
Jordan	Wilson

Nays—14

Aikin	Harris
Bates	Moore
Blanchard	Patman
Connally	Ratliff
Creighton	Snelson
Grover	Watson
Hall	Word

Absent

Christie

Motion to Place
Senate Bill 409 on Second Reading

Senator Brooks moved to suspend the regular order of business and take up S. B. No. 409 for consideration at this time.

The motion was lost by the following vote (not receiving two-thirds vote of the Members present):

Yeas—17

Bates	Jordan
Beckworth	Kothmann
Bernal	Mauzy
Bridges	McKool
Brooks	Patman
Grover	Sherman
Hall	Wallace
Harrington	Wilson
Herring	

Nays—13

Aikin	Moore
Blanchard	Ratliff
Connally	Schwartz
Creighton	Snelson
Harris	Watson
Hightower	Word
Kennard	

Absent

Christie

Senate Joint Resolution 29
on Second Reading

On motion of Senator Wilson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. J. R. No. 29, Proposing an amendment to Article XVI, Sections 33 and 40, Constitution of the State of Texas, to prohibit the payment of any state funds to any person who shall hold more than one civil office of emolument, and providing for exemption of certain offices from the ban of dual office holding, and permitting state employees, who are not state officers, to serve as members of the governing body of school districts, cities, or towns, without forfeiting their salary for their state employment.

The resolution was read second time and passed to engrossment.

Senate Joint Resolution 29
on Third Reading

Senator Wilson moved that the Constitutional Rule and Senate Rule 30 requiring resolutions to be read on three several days be suspended and that S. J. R. No. 29 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Grover
Bates	Hall
Beckworth	Harrington
Bernal	Harris
Blanchard	Herring
Bridges	Hightower
Brooks	Jordan
Christie	Kennard
Connally	Kothmann
Creighton	Mauzy

McKool	Snelson
Moore	Wallace
Patman	Watson
Ratliff	Wilson
Schwartz	Word
Sherman	

The President then laid the resolution before the Senate on its third reading and final passage.

The resolution was read third time.

Senator Wilson offered the following amendment to the resolution:

Amend S. J. R. 29 by striking from line 51 on page 1 the phrase "... who do not hold offices of emolument."

The amendment was read and was adopted by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

On motion of Senator Wilson and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

Bills and Resolutions Signed

The President signed in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

H. C. R. No. 72.
 H. C. R. No. 123.
 H. C. R. No. 124.
 H. B. No. 19.
 H. B. No. 785.
 H. B. No. 553.
 H. B. No. 586.
 H. B. No. 396.
 H. B. No. 620.
 H. B. No. 222.
 H. B. No. 190.
 H. B. No. 652.
 H. B. No. 741.
 H. B. No. 691.
 H. B. No. 692.
 H. B. No. 1159.
 H. B. No. 387.
 H. B. No. 306.
 H. B. No. 214.
 H. B. No. 948.
 H. B. No. 126.
 H. B. No. 797.
 H. B. No. 798.
 H. B. No. 738.
 H. B. No. 210.
 H. B. No. 564.
 H. B. No. 581 (Signed, subject to the provisions of Section 49a of Article III of the Constitution of Texas).
 S. C. R. No. 90.
 S. B. No. 272.
 S. B. No. 447.
 S. B. No. 176.
 S. B. No. 174.

Motion in Writing

Senator Hall submitted the following Motion in Writing:

Honorable Ben Barnes
 President of the Senate

Notice is hereby given of the intent to hold a Local and Uncontested Bills Calendar on Thursday, May 6, 1971, at 9:15 a.m.

HALL
 Chairman
 Local and Uncontested Calendar

The Motion in Writing was read and was adopted.

**Senate Joint Resolution 33 on
 Second Reading**

On motion of Senator Patman and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. J. R. No. 33, Proposing an amendment to Article III, Constitution of the State of Texas, by adding a new Section 52a to give the Legislature the power to authorize cities and counties to issue revenue bonds for industrial and rural development purposes.

The resolution was read second time and passed to engrossment.

**Senate Joint Resolution 33 on
 Third Reading**

Senator Patman moved that the Constitutional Rule and Senate Rule 30 requiring resolutions to be read on three several days be suspended and that S. J. R. No. 33 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Harrington
Bates	Harris
Beckworth	Herring
Bernal	Hightower
Blanchard	Jordan
Bridges	Kennard
Brooks	Kothmann
Christie	Mauzy
Connally	McKool
Creighton	Moore
Grover	Patman
Hall	Ratliff

Schwartz	Watson
Sherman	Wilson
Snelson	Word
Wallace	

The President then laid the resolutions before the Senate on its third reading and final passage.

The resolution was read third time and was passed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

Senate Bill 377 on Second Reading

On motion of Senator Wilson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 377, A bill to be entitled "An Act reducing the sum of a 'next friend' bond executed by the next friend or other person taking charge of money or property, as principal, and by a solvent surety company authorized to execute such bonds in Texas, as surety; amending Article 1994, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 377 on Third Reading

Senator Wilson moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 377 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

**Motion to Place
Senate Bill 583 on Second Reading**

Senator Bernal asked unanimous consent to suspend the regular order of business and take up S. B. No. 583 for consideration at this time.

There was objection.

Senator Bernal then moved to suspend the regular order of business and take up S. B. No. 583 for consideration at this time.

The motion was lost by the following vote: (not receiving two-thirds vote of the members present).

Yeas—15

Bernal	Kothmann
Bridges	Mauzy
Brooks	McKool
Christie	Schwartz
Harrington	Sherman
Harris	Wallace
Jordan	Wilson
Kennard	

Nays—16

Aikin	Herring
Bates	Hightower
Beckworth	Moore
Blanchard	Patman
Connally	Ratliff
Creighton	Snelson
Grover	Watson
Hall	Word

House Bill 1704 Ordered Not Printed

On motion of Senator Bates and by unanimous consent, H. B. No. 1704 was ordered not printed.

Senate Bill 15 Ordered Not Printed

On motion of Senator Bates and by unanimous consent, S. B. No. 15 was ordered not printed.

Senate Bill 455 Ordered Not Printed

On motion of Senator Bates and by unanimous consent, S. B. No. 455 was ordered not printed.

Senate Bill 879 on Second Reading

On motion of Senator Snelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 879, A bill to be entitled "An Act declaring the public policy of the State of Texas; invalidating provisions for indemnity in certain contracts where there is negligence attributable to the indemnitee; defining terms; and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 879 on Third Reading

Senator Snelson moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 879 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Bill 362 on Second Reading

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 362, A bill to be entitled "An Act providing for the regulation by the State Department of Health of certain commercial transactions involving hazardous substances; providing a penalty for violations; and declaring an emergency."

The bill was read second time.

Senator Schwartz offered the following Committee Amendment to the bill:

Amend Senate Bill 362, Section 10 thereof, by striking all of said Section 10 and inserting in lieu thereof the following:

"Sec. 10. RECORDS. For the purposes of enforcing the provisions of this Act, carriers engaged in commerce and persons receiving hazardous substances in commerce or holding any hazardous substances so received, shall, upon the request of the department, permit a representative thereof at reasonable times to have access to, and to copy, all records showing the movement in commerce, or the holding after such movement, of any hazardous substance, and the quantity, consignee, and shipper thereof. However, evidence obtained in this manner may not be used in a criminal prosecution of the person from whom it is obtained, and carriers shall not be subject to the other provisions of this Act by reason of their receipt, carriage, holding, or delivery of hazardous substances in their usual course of business."

The Committee Amendment was read.

Senator Schwartz offered the following substitute for the Committee Amendment:

Amend S. B. 362 by striking everything following the enacting clause and substituting in lieu thereof the following:

Section 1. DEFINITIONS. When used in this Act, unless the context requires a different definition:

(1) "Department" means the Department of Health.

(2) "Person" includes any individual, partnership, corporation or association, or legal representative or agent.

(3) "Commerce" means any and all commerce within the State of Texas and subject to the jurisdiction thereof; and includes the operation of any business or service establishment.

(4) "Hazardous substance" means any substance or mixture of substances which is toxic, corrosive, flammable, an irritant, a strong sensitizer, or generates pressure through decomposition, heat, or other means, if the substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children; and any radioactive substance if, with respect to the substance as used in a particular class of article or as packaged, the department finds by regulation that the substance is sufficiently hazardous to require labeling in accordance with the provisions of this Act in order to protect the public health. The term "hazardous substance" does not apply to economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act, nor to foods, drugs, and cosmetics subject to the Federal Food, Drug, and Cosmetic Act or to the Texas Food, Drug, and Cosmetic Act, nor to substances intended for use as fuels when stored in containers and used in the heating, cooking, or refrigeration system of a private residence, nor does it apply to or include any source material, special nuclear material, or by-product material as defined in the federal Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.

(5) "Toxic" means any substance other than a radioactive substance which has the capacity to produce personal injury or illness to any per-

son through ingestion, inhalation, or absorption through any body surface.

(6) "Highly toxic" means any substance which produces death within 14 days in half or more than half of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered, or when inhaled continuously for a period of one hour or less at an atmospheric concentration of 200 parts per million by volume or less of gas or vapor or two milligrams per liter by volume or less of mist or dust, if the inhaled concentration is likely to be encountered by any person when the substance is used in any reasonably foreseeable manner; or which produces death within 14 days in half or more than half of a group of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours or less. However, if the department finds that available data based on human experience indicate results different from those obtained on animals, the human data shall take precedence.

(7) "Corrosive" means any substance which in contact with living tissue will cause destruction of that tissue by chemical action. It does not refer to chemical action on inanimate surfaces.

(8) "Irritant" means any noncorrosive substance which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(9) "Strong sensitizer" means any substance which will cause on normal living tissue, through an allergic or photodynamic process, a hypersensitivity which becomes evident on reapplication of the same substances. Before designating any substance as a strong sensitizer, the department shall consider the frequency of the occurrence of, and the severity of the reaction to, the resulting hypersensitivity.

(10) "Flammable" applies to any substance which has a flash point of above 20 degrees to and including 100 degrees Fahrenheit, as determined by the Tagliabue Open Cup Tester. Any substance which has a flash point at or below 20 degrees Fahrenheit, as

determined by the Tagliabue Open Cup Tester shall be designated "extremely flammable." However, the flammability of solids and of the contents of self-pressurized containers shall be determined by methods found by the department to be generally applicable to these materials or containers, and shall be established by regulations issued by the department, provided that the flammability standards adopted by the department for children's clothing shall be at least as strict as the Department of Commerce proposed flammability standards for children's sleepwear set forth in the Federal Register, Vol. 35, No. 223, Tuesday, November 17, 1970, at page 17670, et seq.

(11) "Radioactive substance" means a substance which emits ionizing radiation.

(12) "Label" means a display of written, printed, or graphic matter upon the immediate container of any substance, or in the case of an article which is unpackaged or is not packaged, in an immediate container intended or suitable for delivery to the ultimate consumer, a display of this matter directly on the article involved or on a tag or other suitable material affixed thereto.

(13) "Immediate container" does not include package liners.

(14) "Misbranded hazardous substance" means a hazardous substance (including a toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in a manner which is susceptible of access by a child to whom the toy or other article is entrusted intended or packaged in a form suitable for use in the household or by children), which fails to bear a proper label as required by this Act.

Sec. 2. LABELING. (a) A substance declared to be a hazardous substance by the department shall bear a label which states conspicuously:

(1) the name and place of business of the manufacturer, packer, seller, or distributor;

(2) the common or usual name or the chemical name, if there is no common or usual name, of the hazardous substance or of each component which contributes substantially to its

hazard, unless the department by regulation permits or requires the use of a recognized generic name;

(3) the signal word "DANGER" in capital letters on substances which are extremely flammable, corrosive, or highly toxic;

(4) the signal word "WARNING" in capital letters or the signal word "CAUTION" in capital letters on all other hazardous substances;

(5) an affirmative statement of the principal hazard or hazards, such as "Flammable," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard;

(6) precautionary measures describing the action to be followed or avoided;

(7) instruction, when necessary or appropriate, for first-aid treatment;

(8) the word "POISON" in capital letters for any hazardous substance which is toxic or highly toxic;

(9) instructions for handling and storage of packages which require special care in handling or storage; and

(10) the statement "Keep out of the reach of children" or its practical equivalent, or, if the article is intended for use by children and is not a banned hazardous substance, adequate directions for the protection of children from the hazard or hazards.

(11) the statement "Do not use for starting or fueling fires or for cleaning purposes. Do not store near gas hot water heaters or open flame sources" on any container manufactured or offered for sale for the purpose of storing or containing gasoline.

(b) Any statement required by the provisions of Subsection (a) of this section shall be located prominently and shall be written in the English and Spanish languages in conspicuous and legible type which contrasts in typography, layout, or color with other printed matter on the label.

(c) Any statement required by the provisions of Subsection (a) of this section shall also appear on the outside container or wrapper of any substance, and on any container sold separately and intended for the storage of a hazardous substance, unless the

statement is easily legible through the outside container or wrapper, and on all accompanying literature where there are directions for use, written or otherwise.

Sec. 3. BANNED HAZARDOUS SUBSTANCES. (a) Any clothing intended for the use of children up to and including the age of fourteen years which is not in compliance with flammability standards for such clothing established by the department shall be declared to be a banned hazardous substance by the department. The determination by the department that an article of clothing is intended for the use of a child fourteen years or younger shall be conclusive.

(b) Any toy or other article other than clothing intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in a manner susceptible of access by a child to whom the toy or other article is entrusted shall be declared to be a banned hazardous substance by the department.

(c) Any hazardous substance intended, or packaged in a form suitable for, use in a household, which, notwithstanding cautionary labeling required by this Act, is potentially so dangerous or hazardous when present or used in a household, that the protection of the public health and safety can be adequately served only by keeping the substance out of the channels of commerce, shall be declared to be a banned hazardous substance by the department.

(d) Any article subject to the provisions of this Act which cannot be labeled adequately to protect the public health and safety, or which presents an imminent danger to the public health and safety, shall be declared a banned hazardous substance by the department.

(e) The provisions of this section do not apply to any toy or article such as chemical sets which by reason of functional purpose require the inclusion of a hazardous substance, and which bear labeling which in the judgment of the department gives adequate directions and warnings for safe use, and are intended for use by children who have attained sufficient maturity and may reasonably be expected to read and heed these directions and warnings; nor do the provisions

of this section apply to the manufacture, sale, distribution, or use of fireworks of any class.

Sec. 4. EXAMINATIONS AND INVESTIGATIONS. (a) In order to enforce the provisions of this Act, any officer, employee, or agent of the department may, upon the presentation of appropriate credentials to the owner, operator, or agent, enter at reasonable times any factory, warehouse, or establishment in which any hazardous substance is manufactured, processed, packaged, or held for introduction into commerce or is held after introduction into commerce, or any vehicle used to transport or hold any hazardous substance in commerce, for the purpose of inspecting within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle, and all pertinent equipment, finished and unfinished materials, and labeling therein.

(b) The officer, employee, or agent may obtain samples of any materials, packaging, and labeling; however, he shall pay or offer to pay the owner, operator, or agent in charge for any sample and shall give a receipt describing the samples obtained.

Sec. 5. RULES AND REGULATIONS. The department shall adopt and issue rules and regulations necessary for the efficient enforcement of this Act. These rules and regulations shall conform with regulations established pursuant to the Federal Hazardous Substances Act; however, the department may set standards which are more strict than federal standards.

Sec. 6. PROHIBITED ACTS. The following acts are prohibited:

(1) the holding or offering for sale, the sale, the introduction or delivery for introduction into commerce of any misbranded hazardous substance or banned hazardous substance;

(2) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the label, or the doing of any other act with respect to, a hazardous substance if such act is done while the substance is in commerce, or while the substance is held for sale (whether or not the first sale) after shipment in commerce, and results in the hazardous substance being a misbranded hazardous substance or a banned hazardous substance;

(3) the receipt in commerce of any misbranded hazardous substance or

banned hazardous substance, and the delivery or proffered delivery thereof for pay or otherwise;

(4) the failure to permit entry or inspection, or to provide records as authorized by the provisions of this Act;

(5) the use by any person to his own advantage, or revealing other than to the department or to a court when relevant in any judicial proceeding under this Act, of any information acquired in an inspection authorized by the provisions of this Act concerning any method of process which as a trade secret is entitled to protection;

(6) the removal or disposal of a detained article or substance in violation of Section 11.

Sec. 7. **PENALTIES.** Any person who violates any of the provisions of this Act is guilty of a misdemeanor and may upon conviction be fined not less than \$100, nor more than \$1,000, or be imprisoned for not more than 90 days, or both; but for any offense committed with intent to defraud, or for second and subsequent offenses, the penalty shall be a fine of not less than \$1,000, nor more than \$3,000, or imprisonment for not more than 180 days, or both.

Sec. 8. **EXEMPTIONS.** The penalties described in Section 7 of this Act do not apply to any person who delivers or receives a banned or misbranded hazardous substance if the delivery or receipt is made in good faith, and if the person subsequently furnishes on request the name and address of the person from whom he purchased or received the banned or misbranded hazardous substance, and copies of all documents, if any, pertaining to the original delivery of the hazardous substance to him.

Sec. 9. **NECESSITY OF DEPARTMENT ACTION.** No article or substance is a banned hazardous substance, unless a regulation to that effect has been issued and adopted by the department.

Sec. 10. **RECORDS.** For the purposes of enforcing the provisions of this Act, carriers engaged in commerce and persons receiving hazardous substances in commerce or holding any hazardous substances so received, shall, upon the request of the department, permit a representative thereof at reasonable times to have access to, and to copy, all records

showing the movement in commerce, or the holding after such movement, of any hazardous substance, and the quantity, consignee, and shipper thereof. However, evidence obtained in this manner may not be used in a criminal prosecution of the person from whom it is obtained, and carriers shall not be subject to the other provisions of this Act by reason of their receipt, carriage, holding, or delivery of hazardous substances in their usual course of business.

Sec. 11. **SEIZURE.** (a) Whenever a duly authorized agent of the department has good reason to believe that a hazardous substance is a banned or misbranded hazardous substance, he shall affix to the article a tag or other appropriate marking, giving notice that such article is, or is suspected of being a banned or misbranded hazardous substance and has been detained, and warning all persons not to remove from the premises or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court.

(b) The department shall petition to the judge of district court of the county in which the article or articles are located asking that the court authorize the destruction of the article or articles. If the court determines that the article or articles are banned or misbranded hazardous substances, the department shall destroy the article or articles, and all court costs and fees, and storage and other proper expenses shall be taxed against the claimant of the article or articles. However, if the court finds that misbranding occurred in good faith and could be corrected by proper labeling, the court may direct that the article or articles be delivered to the claimant for proper labeling with the approval of the department.

(c) If the court finds that the article or articles are not banned or misbranded hazardous substances, it shall order the department to remove the tags.

"Sec. 12. **EFFECTIVE DATE.** The effective date of this Act is January 1, 1972.

Sec. 13. Chapter 428, Acts of the 55th Legislature, Regular Session, 1957, is repealed.

Sec. 14. **EMERGENCY.** The importance of this Act and the crowded condition of the calendar in both houses creates an emergency and an imperative public necessity that the

Constitutional Rule requiring bills to be read on three several days in both houses be suspended; and this Rule is hereby suspended."

The substitute for the Committee Amendment was read and was adopted.

The Committee Amendment as substituted was then adopted.

On motion of Senator Schwartz and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Senate Bill 362 on Third Reading

Senator Schwartz moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 362 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Bill 307 on Second Reading

On motion of Senator Hall and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 307, A bill to be entitled "An Act relating to the seizure of obscene materials and injunctive and other judicial proceedings concerning obscene materials and materials harmful to minors; etc.; and declaring an emergency."

The bill was read second time.

Senator Mauzy offered the following amendment to the bill:

Amend S. B. 307 by inserting after the enacting clause as a new Section 1 the provisions hereinafter set forth and by renumbering the existing sections of S. B. 307 accordingly:

"Section 1. Section 2, Article 527, Penal Code of Texas, 1925, as amended, is amended to read as follows:

'Section 2. It is not innocent but calculated purveyance which is prohibited. This article shall not apply to persons who may possess or distribute obscene matter or participate in conduct otherwise prescribed by this article when such possession, distribution, or conduct occurs in the course of law enforcement activities or in the course of bona fide scientific, educational, or comparable research or study or in the course of employment as a moving picture machine operator, or assistant operator, in a motion picture theater in connection with a motion picture film or show exhibited in said theater if such operator or assistant operator has no financial interest in the motion picture theater wherein he is so employed other than his wages received or owed, or like circumstances of justification where the possession, distribution, or conduct is not limited to the subject matter's appeal to prurient interests.'"

The amendment was read and was adopted.

On motion of Senator Hall and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Senate Bill 307 on Third Reading

Senator Hall moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three

several days be suspended and that S. B. No. 307 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

Senate Bill 908 on Second Reading

On motion of Senator Jordan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 908, A bill to be entitled "An Act relating to the granting of tuition scholarship to nursing students at certain state-supported insti-

tutions of higher education; and declaring an emergency."

The bill was read second time.

Senator Jordan offered the following amendment to the bill:

Amend Senate Bill No. 908 by striking out all below the enacting clause and substituting in lieu thereof the following:

"Section 1. The governing boards of Texas Woman's University, The University of Texas System, Prairie View Agricultural and Mechanical College, and West Texas State University may grant nursing tuition scholarships to students enrolled in a baccalaureate nursing program. Each such scholarship shall be granted only after a review of the economic circumstances and need of the individual student and may be in an amount deemed necessary to cover any part, or all, of the tuition of such student. Each such governing board may prescribe rules, regulations, and the conditions of general effect applicable to the awarding of nursing tuition scholarships.

"Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and this Rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted."

The amendment was read and was adopted.

On motion of Senator Jordan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

Senate Bill 908 on Third Reading

Senator Jordan moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 908 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Bill 470 on Second Reading

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 470, A bill to be entitled "An Act amending Sections 3 and 26 of the Texas Uniform Limited Partnership Act (Article 6132a, Vernon's Texas Civil Statutes); and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 470 on Third Reading

Senator Aikin moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 470 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Connally
Bates	Creighton
Beckworth	Grover
Bernal	Hall
Blanchard	Harrington
Bridges	Harris
Brooks	Herring
Christie	Hightower

Jordan	Schwartz
Kennard	Sherman
Kothmann	Snelson
Mauzy	Wallace
McKool	Watson
Moore	Wilson
Patman	Word
Ratliff	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Bill 471 on Second Reading

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 471, A bill to be entitled "An Act to amend Article 3914, Revised Civil Statutes of Texas, 1925, as amended; increasing the fee collected by the Secretary of State for issuing a notary public commission; providing for severability; and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 471 on Third Reading

Senator Aikin moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 471 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Bill 472 on Second Reading

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 472, A bill to be entitled "An Act amending Sections 9.403, 9.404, 9.405, and 9.406 of the Business and Commerce Code, as amended; and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 472 on Third Reading

Senator Aikin moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 472 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Senate Bill 60 With House Amendment

Senator Word called S. B. No. 60 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the following House amendment before the Senate:

Committee Amendment No. 1

Amend Sec. 2 of Senate Bill 60 to read as follows:

"Sec. 2. As compensation for the additional duties imposed upon them, the county and district judges who are members of the board shall each be allowed additional compensation of not more than \$3,600.00 per year, payable in twelve equal monthly installments out of the general fund or any other available fund of Johnson County. The compensation shall be set by the commissioners court of Johnson County."

The House amendment was read.

Senator Word moved that the Senate concur in the House amendment.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

Senate Bill 529 on Second Reading

On motion of Senator Hightower and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. B. No. 529, A bill to be entitled "An Act relating to the authority of the presiding judge of the Court of Criminal Appeals to designate and appoint certain retired appellate judges or district judges, or active appellate judges or district judges to sit as commissioners of the Court of Criminal Appeals; etc., and declaring an emergency."

The bill was read second time and passed to engrossment.

Senate Bill 529 on Third Reading

Senator Hightower moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that S. B. No. 529 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—30

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Bridges	McKool
Brooks	Moore
Christie	Patman
Connally	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Watson
Herring	Wilson
Hightower	Word

Nays—1

Blanchard

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—30

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Bridges	McKool
Brooks	Moore
Christie	Patman
Connally	Ratliff
Creighton	Schwartz
Grover	Sherman
Hall	Snelson
Harrington	Wallace
Harris	Watson
Herring	Wilson
Hightower	Word

Nays—1

Blanchard

Senate Joint Resolution 36 on Second Reading

On motion of Senator Mauzy and by unanimous consent, the regular or-

der of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S. J. R. No. 36, Proposing an amendment to Article V, Section 8, of the Texas Constitution, to enlarge the jurisdiction of the district court in probate matters and to authorize the supreme court to adopt rules for such cases, between district courts, county courts, and other courts having jurisdiction and provide for appeals.

The resolution was read second time and passed to engrossment.

Senate Joint Resolution 36 on Third Reading

Senator Mauzy moved that the Constitutional Rule and Senate Rule 30 requiring resolutions to be read on three several days be suspended and that S. J. R. No. 36 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—31

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

The President then laid the resolution before the Senate on its third reading and final passage.

The resolution was read third time and was passed by the following vote:

Yeas—31

Aikin	Brooks
Bates	Christie
Beckworth	Connally
Bernal	Creighton
Blanchard	Grover
Bridges	Hall

Harrington	Patman
Harris	Ratliff
Herring	Schwartz
Hightower	Sherman
Jordan	Snelson
Kennard	Wallace
Kothmann	Watson
Mauzy	Wilson
McKool	Word
Moore	

**Committee Substitute
Senate Bill 409 on Second Reading**

Senator Brooks asked unanimous consent to suspend the regular order of business and take up C. S. S. B. No. 409 for consideration at this time.

There was objection.

Senator Brooks then moved to suspend the regular order of business and take up C. S. S. B. No. 409 for consideration at this time.

The motion prevailed by the following vote:

Yeas—23

Bates	Jordan
Beckworth	Kennard
Bridges	Kothmann
Brooks	Mauzy
Christie	McKool
Creighton	Moore
Grover	Patman
Hall	Schwartz
Harrington	Sherman
Harris	Wallace
Herring	Wilson
Hightower	

Nays—7

Aikin	Snelson
Blanchard	Watson
Connally	Word
Ratliff	

Absent

Bernal

The President laid before the Senate on its second reading and passage to engrossment:

C. S. S. B. No. 409, A bill to be entitled "An Act amending Article 3, Subchapter IX, the Texas Banking Code of 1943, as amended (Article 342-903, Vernon's Texas Civil Statutes), concerning the prohibition of branch banking; and declaring an emergency."

The bill was read second time and was passed to engrossment.

Record of Vote

Senator Ratliff asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**Committee Substitute
Senate Bill 409 on Third Reading**

Senator Brooks moved that the Constitutional Rule and Senate Rule 30 requiring bills to be read on three several days be suspended and that C. S. S. B. No. 409 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—24

Bates	Jordan
Beckworth	Kennard
Bridges	Kothmann
Brooks	Mauzy
Christie	McKool
Creighton	Moore
Grover	Patman
Hall	Schwartz
Harrington	Sherman
Harris	Wallace
Herring	Wilson
Hightower	Word

Nays—6

Aikin	Ratliff
Blanchard	Snelson
Connally	Watson

Absent

Bernal

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and passed.

Record of Vote

Senator Ratliff asked to be recorded as voting "Nay" on the final passage of the bill.

House Resolutions on First Reading

The following resolutions received from the House, were read the first time and referred to the Committee indicated:

H. C. R. No. 110, To Committee on Administration.

H. C. R. No. 64, To Committee on Administration.

H. C. R. No. 126, To Committee on Transportation.

Co-Author of Senate Joint Resolution 33

On motion of Senator Patman and by unanimous consent, Senator Wilson will be shown as Co-author of S. J. R. No. 33.

Memorial Resolutions

S. R. No. 1133—By Senator Watson: Memorial resolution for Mrs. Estelle Chandler.

S. R. No. 1134—By Senator Schwartz: Memorial resolution for Joseph E. Rourke, Sr.

Welcome Resolutions

S. R. No. 1131—By Senator Watson: Extending welcome to Honorable Martin Eichelberger of Waco.

S. R. No. 1132—By Senator Creighton: Extending welcome to General Robert B. Mackinnon.

S. R. No. 1135—By Senator Watson: Extending welcome to Mr. and Mrs. Bill Prestridge, et al.

S. R. No. 1136—By Senator Watson: Extending welcome to George English, et al.

S. R. No. 1137—By Senator Herring: Extending welcome to teachers and students of Fifth Grade Class, Odom Elementary Class.

Adjournment

On motion of Senator Aikin the Senate at 12:12 o'clock p.m. adjourned until 10:00 oclock a.m. tomorrow.

APPENDIX

Sent to Governor

May 4, 1971

S. B. No. 272.

S. C. R. No. 90.

S. B. No. 174.

S. B. No. 447.

S. B. No. 176.

SIXTY-SIXTH DAY

(Wednesday, May 5, 1971)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President Pro Tempore.

The roll was called and the following Senators were present:

Aikin	Jordan
Bates	Kennard
Beckworth	Kothmann
Bernal	Mauzy
Blanchard	McKool
Bridges	Moore
Brooks	Patman
Christie	Ratliff
Connally	Schwartz
Creighton	Sherman
Grover	Snelson
Hall	Wallace
Harrington	Watson
Harris	Wilson
Herring	Word
Hightower	

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Message From the House

Hall of the House of Representatives,
Austin, Texas,
May 5, 1971.

Hon. Ben Barnes, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. B. No. 275, A bill to be entitled "An Act creating and establishing in Corpus Christi, Nueces County, Texas, a fully State-supported, coeducational institution of higher learning, to be known as the University of South Texas; establishing a Board of Regents and providing for its appointment, tenure and authority; prescribing the powers of the Board of Regents; providing for the collection of fees and the acceptance of gifts and donations; providing that general laws affecting other State institutions of higher learning, not in conflict with